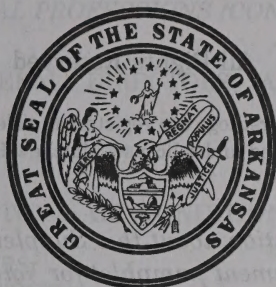


# ARKANSAS CODE OF 1987 ANNOTATED



## 2021 SUPPLEMENT VOLUME 17B

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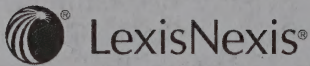
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Matthew Bender & Company, Inc.

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## **TITLE 17**

### **PROFESSIONS, OCCUPATIONS, AND BUSINESSES**

(CHAPTERS 1-28 IN VOLUME 17A; CHAPTERS 80-107 IN  
VOLUME 17C)

#### *SUBTITLE 2. NONMEDICAL PROFESSIONS (CONT'D)*

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### **CHAPTER 29**

### **EMBALMERS, FUNERAL DIRECTORS, AND FUNERAL ESTABLISHMENTS**

##### SUBCHAPTER.

3. EMBALMERS AND FUNERAL DIRECTORS LAW — LICENSING.

**SUBCHAPTER 3 — EMBALMERS AND FUNERAL DIRECTORS LAW — LICENSING**

## SECTION.

17-29-302. Funeral directors — Qualifications — Definition.

17-29-304. Funeral establishment — Requirements.

17-29-311. Prohibited conduct — Sanctions.

## SECTION.

17-29-313. Permit required — Crematorium construction — Operation of crematorium.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

**17-29-302. Funeral directors — Qualifications — Definition.**

(a) A person who desires to engage in the business of funeral directing in this state shall:

- (1) Be at least eighteen (18) years of age;
- (2) Be a graduate of an accredited high school or the equivalent thereof;
- (3)(A) Have served as an apprentice funeral director for not less than eighteen (18) months in the State of Arkansas under the direct personal supervision of an Arkansas-licensed funeral director.

(B) Completion of the requirement to be a graduate of a school of embalmers as set forth in § 17-29-301(a)(3) may be substituted for six (6) of the eighteen (18) months' apprenticeship established in this section;

(4) Make application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services and attach the fee;

(5)(A) Take and pass all examinations approved and required by the board.

(B) To be eligible to take the examination under subdivision (a)(5)(A) of this section, an applicant shall be an active apprentice who is currently registered with the board; and

(6)(A) Undergo and pass a criminal background check conducted by the Division of Arkansas State Police.

(B) The board may charge and collect a processing fee in an amount necessary to recover the cost imposed by the division for the criminal background check under subdivision (a)(6)(A) of this section.



(b)(1)(A) A person desiring to engage in the business of funeral directing in this state shall serve an apprenticeship in this state for at least eighteen (18) months.

(B) An apprentice shall:

(i) Register with the board on forms provided by the board and by attaching the fee as prescribed by the board;

(ii) Upon registration with the board, be supervised by a funeral director licensed by the board;

(iii) Actively assist in arranging fifty (50) services as determined by rule of the board; and

(iv)(a) By the tenth day of the following month, file with the board individual case reports of services arranged by the apprentice.

(b) A case report under subdivision (b)(1)(B)(iv)(a) of this section shall be signed by the apprentice and the licensed funeral director under whose supervision the work was performed.

(2) Before an apprenticeship under this section begins, a licensed funeral director who is supervising an apprenticeship shall record a notice of the apprenticeship with the board.

(3) The board may suspend or revoke an apprenticeship under this section for a violation of this subchapter or § 23-61-1101 et seq.

(4) A person who is currently in an apprenticeship under this section shall be subject to the provisions in this section concerning an apprenticeship as determined by rules of the board.

(c)(1) The board shall require applicants for licensure as funeral directors to successfully complete up to twenty (20) hours of classroom instruction in funeral service practices and ethics, laws, and rules affecting funeral service.

(2) As used in subdivision (c)(1) of this section, "classroom instruction" means instruction that is delivered:

(A) On-site or that requires the attendee to be at the same physical location as the instructor; or

(B) By any virtual method through remote communication, including audio-only or audio-and-video instruction that is delivered digitally.

(3) Only courses of instruction approved by the board shall satisfy the requirement under subdivision (c)(1) of this section.

**History.** Acts 1983, No. 325, §§ 4, 5; A.S.A. 1947, §§ 71-904, 71-905; Acts 1989, No. 106, § 4; 1999, No. 1138, § 3; 2003, No. 367, § 2; 2015, No. 1095, §§ 16, 17; 2017, No. 788, § 7; 2021, No. 396, §§ 1, 2.

**Amendments.** The 2021 amendment added (c)(2) and redesignated former (c)(2) as (c)(3); and corrected a spelling error.

### 17-29-304. Funeral establishment — Requirements.

(a)(1) A person shall not conduct, maintain, manage, or operate a funeral establishment in this state unless the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services has issued a



license for the funeral establishment and the license is displayed in the funeral establishment.

(2) A price list, statement of funeral goods and services, publication, advertisement, or other document of a funeral establishment shall:

(A) Accurately reflect the name and location of the funeral establishment on file with the board;

(B) Accurately describe each location to which the price list, statement, publication, advertisement, or document applies; and

(C) Include additional annual requirements as determined by rule of the board.

(3) A funeral establishment shall:

(A) Establish a permanent place of business;

(B) Maintain a working telephone number for the funeral establishment;

(C) Maintain working public utilities, including without limitation running water, electricity, and a functioning heating and cooling system; and

(D) Ensure that the interior of the funeral establishment is protected from exposure to outside elements.

(4) A funeral establishment may display a sign at each location of the funeral establishment that indicates the registered name of the funeral establishment that is on file with the board.

(b)(1)(A) Except as provided in subdivision (b)(2) of this section, the board shall not issue a license to operate a full-service funeral establishment unless the establishment has employed a full-time manager who:

(i) Is a licensed funeral director;

(ii) Actively supervises the staff of the establishment; and

(iii) Is not employed by a nonaffiliated funeral establishment.

(B) A funeral establishment shall:

(i) Be open for business and available for inspection by the board during normal business hours; and

(ii) Post conspicuously its hours of operation on the premises of the funeral establishment.

(2) A funeral establishment that is a part of a multiunit enterprise within this state may employ only one (1) full-time manager who is licensed as a funeral director for a branch of the funeral establishment if the full-time manager:

(A) Is reasonably accessible to the branch of the funeral establishment; and

(B) Resides within fifty (50) miles of the branch of the funeral establishment.

(c) Application for the funeral establishment licenses shall be made on forms furnished by the board.

(d) All embalming therein shall be performed by or under the direct supervision of an Arkansas-licensed embalmer.

(e)(1) A funeral establishment that conducts embalming shall have a preparation room for embalming that has:



(A) Sanitary floors, walls, and ceilings that are constructed from a washable surface;

(B) Adequate sanitary drainage and disposal facilities, including hot and cold running water;

(C) An exhaust system that provides proper ventilation according to the standards and regulations of the United States Occupational Safety and Health Administration for the prevention of the spread of contagious, infectious, or communicable diseases;

(D) A heating and cooling system that is separate from the rest of the funeral establishment;

(E) Privacy coverings on doorways and windows that prevent viewing of the preparation room and the contents of the preparation room;

(F) A functional lock that prevents unauthorized entrance to the preparation room;

(G) A biohazard waste disposal system that complies with § 20-32-101 et seq. and rules established by the Department of Health concerning the segregation, packaging, storage, transportation, treatment, and disposal of commercial medical waste from health-care-related facilities; and

(H) Other requirements established by rule of the board.

(2) The funeral establishment shall comply with the rules of the department and standards and regulations of the United States Occupational Safety and Health Administration for the prevention of the spread of contagious, infectious, or communicable diseases.

(f) Each funeral establishment using an available embalmer shall file with the board a notarized statement signed by the embalmer, stating that his or her services are available to the establishment at all times, and within a reasonable time after death occurs, not to exceed six (6) hours.

(g) A funeral establishment shall:

(1) Contain a separate conference room that is used to make funeral arrangements;

(2) Display on site a reasonable number of caskets as determined by the board;

(3) Maintain proper care and maintenance of the interior and exterior of the funeral establishment;

(4) Maintain the interior and exterior of the funeral establishment in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public; and

(5)(A) Maintain at least one (1) refrigeration unit or have access to a refrigeration unit within a reasonable time after death as determined by rule of the board.

(B) Accessibility to a refrigeration unit by a funeral establishment shall be reported as determined by rule of the board.

(C) A multi-unit funeral establishment enterprise is required to maintain at least one (1) refrigeration unit or have access to a refrigeration unit within a reasonable time after death as determined by rule of the board.



(h) Mobile homes or mobile units are prohibited for use as a funeral establishment or branch thereof. No mobile home or mobile units shall be used for the performance of any function or service of a funeral establishment except in case of emergency as prescribed by the board. Mobile homes, modular units, manufactured homes, and similar mobile units may be granted a replacement license on a case-by-case basis.

(i)(1) A funeral establishment shall provide proof of general liability insurance.

(2) The board shall develop and promulgate rules requiring sufficient and appropriate minimum levels of general liability insurance coverage for licensed funeral establishments.

(j) Upon renewal of its license, a funeral establishment that is currently operating under this section shall be subject to the provisions in this section as determined by rules of the board.

(k) Multiple funeral establishments are not permitted to share the same physical location without the prior approval of the board.

**History.** Acts 1983, No. 325, § 4; A.S.A. 1947, § 71-904; Acts 1999, No. 1138, § 4; 2003, No. 367, § 3; 2011, No. 874, § 2; 2015, No. 1095, §§ 20-24; 2017, No. 788, §§ 9-12; 2019, No. 697, § 1.

**Amendments.** The 2019 amendment substituted “or have access to a refrigeration unit within a reasonable time after death as determined by rule of the board” for “within the state” in (g)(5)(C).

### 17-29-311. Prohibited conduct — Sanctions.

(a) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may issue letters of reprimand or caution, refuse to issue or renew a license, suspend or revoke any license for the practice of embalming or funeral directing, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of the license to be guilty of acts of commission or omission, including the following:

(1) Conviction of a felony listed under § 17-3-102;

(2) Misrepresentations made or fraud committed as a holder of a license;

(3) False or misleading advertising;

(4) Solicitation of dead human bodies by the licensee, his or her agents, assistants, or employees, whether the solicitation occurs after death or while death is impending, provided that this prohibition shall not be deemed to prohibit general advertising;

(5) Employment directly or indirectly of an apprentice, agent, assistant, employee, or other person on a part-time or full-time basis or on a commission for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

(6) The direct or indirect payment or offer of payment of a commission by the licensee, his or her agents, assistants, or employees for the purpose of securing business;

(7) Allowing a person who is not licensed under this subchapter to execute a contract for funeral arrangements;



(8) Aiding or abetting an unlicensed person to practice embalming or funeral directing;

(9) Violation of any provision of this subchapter and § 17-29-201 et seq. [repealed];

(10) Violation of any state law or rule or of any municipal or county ordinance or regulation affecting the handling, custody, care, transportation, or final disposition of dead human bodies;

(11) Fraud or misrepresentation in obtaining or renewing a license;

(12) Refusing to properly release a dead human body to the custody of the person or entity having the legal right to effect such a release if all other applicable laws and rules have been followed by the holder of the license;

(13) Willful failure to secure a permit for the removal or burial or other disposition of a dead human body;

(14) Knowingly making a false statement on a certificate of death;

(15) Violations of applicable law or rules with regard to prearranged or prepaid funeral services or funeral merchandise. However, the proper regulatory agency for prearranged or prepaid funeral services or funeral merchandise shall have determined that such a violation has occurred;

(16) Discriminating in services because of race, creed, color, or national origin;

(17) Failure to meet continuing education requirements; or

(18) Failure to answer a complaint within the fifteen-day time period.

(b) A routine sale of a prearranged or a prefinanced funeral or of funeral merchandise in the ordinary course of business is not a violation of subdivisions (a)(4)-(7) of this section.

(c) No person licensed pursuant to this subchapter shall remove or embalm a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death until permission of the coroner or medical examiner, or some other fully qualified person acting in such a capacity if there is no coroner or medical examiner, has first been obtained.

(d) A public officer or employee, the official of any public institution, any physician or surgeon, or any other person having a professional relationship with a decedent shall not send or cause to be sent to a funeral establishment or to a person licensed under this subchapter the remains of any deceased person without having first made due inquiry as to the desires of the authorizing agent or agents.

(e) It shall be unlawful for any person, partnership, corporation, or association that has not been licensed or registered as specified in this subchapter to transact, practice, or hold himself or herself or itself out as transacting or practicing embalming or funeral directing or operating or maintaining a funeral establishment within this state.

(f)(1) A dead human body that is not buried or otherwise disposed of within an allotted time as determined by rule of the board shall be embalmed or stored under refrigeration as determined by the Depart-



ment of Health or its successor or successors concerning the preservation of bodies.

(2)(A) When taking custody of the dead human body under this subchapter or § 23-61-1101 et seq. or when the dead human body is stored under refrigeration as determined by the department, a funeral establishment or crematory shall maintain the dead human body in a manner that provides for complete coverage of the dead human body and prevents leakage or spillage by properly storing the dead human body in a refrigeration or preparation room at all times except during:

(i) Identification, embalming, or preparation of an unembalmed dead human body for final disposition;

(ii) Restoration and dressing of a dead human body in preparation for final disposition; or

(iii) Viewing during a visitation or funeral service.

(B) The funeral establishment or crematory shall treat the dead human body with dignity and respect as determined by rule of the board.

(3)(A) If a funeral establishment or crematory is unable to secure or store a dead human body as required under subdivision (f)(1) of this section due to an unforeseen circumstance, the funeral establishment or crematory shall transfer the dead human body and notify the board and the person or entity having the legal right to arrange for the final disposition of the dead human body.

(B) The notice required under subdivision (f)(3)(A) of this section shall:

(i) Be provided within twenty-four (24) hours after the occurrence of the unforeseen circumstance; and

(ii) Include the:

(a) Name and location of the facility where the dead human body is being transferred;

(b) Reason for the transfer; and

(c) Method of storage.

(4) A dead human body shall not be embalmed or artificially preserved without:

(A) The express permission of a person or entity with the legal right to arrange for the final disposition of the dead human body under the Arkansas Final Disposition Rights Act of 2009, § 20-17-102; or

(B) A court order.

(5) A funeral establishment or crematory shall not store a dead human body until final disposition at a funeral establishment or crematory without a license under this subchapter or § 23-61-1101 et seq.

(6) A funeral establishment, crematory, or transport service of human remains licensed under this subchapter shall not transport or store a dead human body together with animal remains in the same confined space.



(g) It shall be unlawful and a violation of this subchapter and § 23-61-1101 et seq. to transport or otherwise transfer by common carrier a dead human body out of the State of Arkansas unless the body has been prepared and embalmed by a licensed embalmer of this state and a transit-burial permit has been issued by the local registrar of the county where death occurred. A licensee of this state permitting this to be done shall be subject to the punishment under this subchapter and § 23-61-1101 et seq.

(h) It is a violation of this chapter for a person to engage in the practice of embalming or funeral directing or to hold himself or herself out to the public as a licensed practicing embalmer or funeral director in this state without a license.

(i) A person or entity shall not be issued a license to practice the science of embalming or to engage in the business of funeral directing for one (1) year after the license of the person or entity is revoked.

**History.** Acts 1983, No. 325, § 11; A.S.A. 1947, § 71-911; Acts 1997, No. 839, § 7; 2003, No. 367, § 4; 2011, No. 874, §§ 5, 6; 2015, No. 1095, §§ 31-36; 2017, No. 788, §§ 19, 20; 2019, No. 315, §§ 1398, 1399; 2019, No. 990, § 34.

**Amendments.** The 2019 amendment by No. 315, in (a)(10), inserted “or rule” and “of any”; and substituted “rules” for “regulation” in the first sentence of (a)(15). The 2019 amendment by No. 990 added “listed under § 17-3-102” in (a)(1).

### **17-29-313. Permit required — Crematorium construction — Operation of crematorium.**

(a)(1) A crematorium shall not be constructed in this state without a permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(2) In order to receive a permit to construct a crematorium, a person shall:

(A)(i) Publish a notice in a newspaper of general circulation in the county where the crematorium is proposed to be constructed stating that the applicant intends to construct a crematorium at a designated location.

(ii) The notice shall:

(a)(1) Be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before submitting an application to the board.

(2) Publication as described in subdivision (a)(2)(A)(ii)(a)(1) of this section is sufficient if the notice is published in the newspaper’s print edition or digital edition, or both; and

(b) Invite members of the public to submit written protest to the construction of the proposed crematorium to the board at the address designated by the board; and

(B)(i) Submit an application to the board for a permit to construct a crematorium.

(ii) The application for a permit to construct a crematorium shall include:

- (a) Proof of publication of the notice required under subdivision (a)(2)(A) of this section;
  - (b) A copy of the permit issued by the Division of Environmental Quality under § 8-4-203 to construct the crematorium; and
  - (c) The fee as prescribed in § 17-29-208 [repealed].
- (b)(1) Upon receiving a written protest to an application for the construction of a crematorium, the board shall:
- (A) Schedule a public hearing on the application; and
  - (B)(i) Direct the applicant to publish in a newspaper having general circulation within the county where the crematorium is proposed to be constructed a notice of the date and time of a public hearing on the application.
  - (ii) The notice shall be published on the Sunday and Wednesday no more than fifteen (15) days nor less than seven (7) days before the public hearing.
- (2) The public hearing shall be held in the city or county in which the proposed crematorium is to be located.
- (c)(1) A crematorium shall not be operated in this state without a license issued by the board.
- (2) A person who desires to operate a crematorium in this state shall:
- (A) Make application to the board on forms furnished by the board;
  - (B) Provide the necessary information as determined by the board;
  - (C) Attach the fee as prescribed by the board;
  - (D) Satisfy the requirements of the board for the safe and sanitary operation of a crematorium as determined by the board; and
  - (E)(i) Provide to the board proof of liability insurance.
  - (ii) The board shall develop and promulgate rules to establish minimum levels of general liability insurance coverage for licensed crematoriums.
- (3) The board shall grant the application if the board finds that the proposed crematorium:
- (A) Complies with all state and federal laws concerning environmental and public health; and
  - (B) Will serve the public interest.

**History.** Acts 1993, No. 365, § 1; 2015, No. 1095, § 37; 2017, No. 788, §§ 22, 23; 2019, No. 910, § 3184; 2021, No. 396, § 3.

**Amendments.** The 2019 amendment substituted "Division of Environmental

Quality" for "Arkansas Department of Environmental Quality" in (a)(2)(B)(ii)(b).

The 2021 amendment added (a)(2)(A)(ii)(a)(2).

## CHAPTER 30

### ENGINEERS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS.
3. LICENSURE.



**SUBCHAPTER 1 — GENERAL PROVISIONS**

## SECTION.

17-30-102. Penalties — Violations.

17-30-105. Exemptions.

**17-30-102. Penalties — Violations.**

(a)(1) A person who practices or offers to practice engineering in this state in violation of this chapter and a person using or attempting to use as his or her own the certificate of licensure of another, who gives false evidence of any kind to the State Board of Licensure for Professional Engineers and Professional Surveyors or to any member of the board in obtaining a certificate of licensure, or who falsely impersonates any other practitioner or in any manner falsely implies that he or she is licensed or violates this chapter or the rules of the board is guilty of a misdemeanor.

(2) For each offense of which he or she is convicted, the person shall be punished by:

(A) A fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);

(B) Imprisonment not to exceed three (3) months; or

(C) Both fine and imprisonment.

(3) Each violation and each day of any violation constitutes a separate offense.

(b) The following persons are guilty of a Class A misdemeanor for the first offense and a Class D felony for the second or any subsequent offense:

(1) A person who practices or offers to practice engineering in this state without being licensed under this chapter;

(2) A person, firm, partnership, organization, association, corporation, or other entity using or employing the words “engineer” or “engineering” or any modification or derivative thereof in its name or form or business activity, except as authorized in this chapter;

(3) A person presenting or attempting to use the certificate of licensure or the seal of another;

(4) A person who gives false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of licensure;

(5) A person who falsely impersonates a licensee of like or different name;

(6) A person who attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure;

(7) A person who practices or offers to practice when not qualified;

(8) A person who falsely claims that he or she is licensed or authorized under this chapter; or

(9) A person who violates any of the provisions of this chapter.

**History.** Acts 1953, No. 214, § 7; A.S.A. §§ 1, 3; 1995, No. 1296, § 65; 2009, No. 1947, § 71-1024; Acts 1993, No. 1041, 444, § 1; 2019, No. 315, § 1400.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (a)(1).

### 17-30-105. Exemptions.

This chapter does not prevent the practice by:

(1) **OTHER PROFESSIONS.** The practice of any other legally recognized profession;

(2) **TEMPORARY PERMITS.**

(A)(i) The practice or offer to practice of engineering by a person not a resident of or having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country.

(ii) An applicant may temporarily provide engineering services before becoming licensed under the reciprocal and comity licensure provisions of § 17-30-302(d) by obtaining a temporary permit.

(iii) The State Board of Licensure for Professional Engineers and Professional Surveyors shall specify by rule the qualifications necessary to obtain a temporary permit.

(iv) The qualifications necessary to obtain a temporary permit shall be similar to those necessary for original licensure.

(B) An applicant for a temporary permit shall submit an application for a temporary permit and for reciprocal or comity licensure to the board in writing and, after payment of a fee established by board rule, may be granted a written permit for a definite period of time; and

(3) **EMPLOYEES AND SUBORDINATES.** The work of an employee or a subordinate of a person holding a certificate of licensure under this chapter or an employee of a person practicing lawfully under subdivision (2) of this section if the work does not include final engineering designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of licensure under this chapter or a person practicing lawfully under subdivision (2) of this section.

**History.** Acts 1993, No. 1041, § 3; substituted “rule” for “regulation” in 2009, No. 444, § 2; 2019, No. 315, § 1401. (2)(B).

**Amendments.** The 2019 amendment

## SUBCHAPTER 2 — STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS

### SECTION.

17-30-202. Officers and Director of State Board of Licensure for Professional Engineers and Professional Surveyors.

### SECTION.

17-30-205. Duty of Attorney General.



**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### **17-30-202. Officers and Director of State Board of Licensure for Professional Engineers and Professional Surveyors.**

The State Board of Licensure for Professional Engineers and Professional Surveyors shall:

- (1) Select its own officers; and
- (2) Have the power in consultation with the Secretary of the Department of Labor and Licensing to employ a Director of the State Board of Licensure for Professional Engineers and Professional Surveyors who shall serve as secretary-treasurer of the board.

**History.** Acts 1953, No. 214, § 4; 1957, No. 285, § 1; 1969, No. 131, § 1; 1969, No. 196, § 2; A.S.A. 1947, § 71-1021; Acts 1993, No. 1041, § 2; 2009, No. 444, § 3; 2019, No. 910, § 5424.

**Amendments.** The 2019 amendment rewrote the section heading; and substituted

"in consultation with the Secretary of the Department of Labor and Licensing to employ a Director of the State Board of Licensure for Professional Engineers and Professional Surveyors" for "to appoint an executive director" in (2).

### **17-30-205. Duty of Attorney General.**

(a) The Attorney General or his or her assistant shall act as legal advisor to the State Board of Licensure for Professional Engineers and Professional Surveyors and render such legal assistance as necessary in carrying out this chapter.

(b) It is the duty of the Attorney General to enforce this chapter and to prosecute any person violating this chapter.

(c) The board may employ counsel and necessary assistance to aid in the enforcement of this chapter or request assistance from the Department of Labor and Licensing, and the compensation and expenses shall be paid from the funds of the board.

**History.** Acts 1993, No. 1041, § 3; 2009, No. 444, § 3; 2019, No. 910, § 5425.

**Amendments.** The 2019 amendment

inserted "or request assistance from the Department of Labor and Licensing" in (c).

**SUBCHAPTER 3 — LICENSURE****SECTION.**

17-30-303. Authorization certificates.

17-30-305. Administrative violations and penalties.

**17-30-303. Authorization certificates.**

(a)(1) The practice or offer to practice for others, as defined in § 17-30-101, by individuals licensed under this chapter through a firm is permitted if:

(A) The professional engineers of the firm are licensed under this chapter or are practicing under § 17-30-105; and

(B) The firm has been issued a certificate of authorization by the State Board of Licensure for Professional Engineers and Professional Surveyors under this subchapter.

(2) All final drawings, specifications, plans, reports, calculations, or other engineering papers or documents involving the practice of engineering, as defined in this chapter, when issued or filed for public record, shall be dated and bear the signature and seal of the professional engineer qualified in the appropriate branch of engineering who prepared them or under whose immediate direction they were prepared.

(b)(1) A firm desiring a certificate of authorization shall file with the board an application, using the form provided by the board, providing all the information required by the board, and also listing the names and addresses of the individual or individuals duly licensed to practice engineering in this state who shall be in responsible charge of the practice of engineering in the state through the firm, and other information, which must accompany the annual renewal fee.

(2) If there is a change in any of these persons during the year, the change shall be designated on the same form and filed with the board within thirty (30) days after the effective date of the change.

(3) If all of the requirements of this section are met, the board shall issue a certificate of authorization to the firm, and the firm may contract for and collect fees for furnishing engineering services.

(c) This chapter does not prevent a firm from performing engineering services for the firm itself or a subsidiary or an affiliate of the firm.

(d)(1) The firm shall not be relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section.

(2) An individual practicing engineering under this chapter shall not be relieved of responsibility for engineering services performed by reason of employment or other relationship with a firm holding an authorization certificate.

(e) A certificate of authorization shall be renewed as provided in this chapter.

(f) An engineer who gives occasional, part-time, or consulting engineering services to or for a firm shall not be designated as being



responsible for the professional activities of the firm unless the engineer is an officer or owner of the firm.

(g)(1) The Secretary of State shall not issue a certificate of incorporation to an applicant or a registration as a foreign firm to a firm that includes among the objectives for which it is established any of the words “engineer”, “engineering”, or any modification or derivation thereof unless the board has issued for the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive such a certificate.

(2) The firm applying shall supply such a certificate or letter from the board with its application for incorporation or registration.

(h) The Secretary of State shall decline to register any trade name or service mark that includes words as set forth in subsection (g) of this section or modifications or derivatives thereof in its firm name or logos except those firms holding authorization certificates issued under this section.

**History.** Acts 1993, No. 1041, § 3; 2009, No. 444, § 4; 2011, No. 897, §§ 3, 4; 2019, No. 386, § 20.

**Amendments.** The 2019 amendment deleted “of licensure for this profession” following “board” in (g)(1).

### **17-30-305. Administrative violations and penalties.**

(a) The State Board of Licensure for Professional Engineers and Professional Surveyors may suspend, revoke, or refuse to issue, restore, or renew a certificate of licensure of, or place on probation, fine, or reprimand a professional engineer who is:

(1) Found guilty of:

(A) Fraud or deceit in obtaining, attempting to obtain, or renewing a certificate of licensure or certificate of authorization;

(B) Negligence, incompetency, or misconduct in the practice of engineering;

(C) Failure to comply with this chapter, the rules of the board, or an order of the board;

(D) Discipline by another state, territory, the District of Columbia, a foreign country, the United States Government, or any other governmental agency, if at least one (1) of the grounds for discipline is the same or substantially equivalent to those contained in this section;

(E) Failure within thirty (30) days to provide information requested by the board as a result of a formal or informal complaint to the board that would indicate a violation of this chapter;

(F) Knowingly making false statements or signing false statements, certificates, or affidavits to induce payment;

(G) Aiding or assisting another person in violating this chapter or the rules of the board;

(H) Violating a term of probation imposed by the board;

(I) Using a seal or practicing engineering while the professional engineer’s license is suspended, revoked, nonrenewed, or inactive;

(J) Signing, affixing the professional engineer's seal, or permitting the professional engineer's seal or signature to be affixed to an instrument of practice that has not been prepared or completely checked by the professional engineer or under the professional engineer's direct supervision or control;

(K) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(L) Providing false testimony or information to the board; or

(M) Habitual intoxication or addiction to the use of drugs or alcohol; or

(2) Found guilty of or enters a plea of guilty or nolo contendere to:

(A) A felony listed under § 17-3-102;

(B) A crime of which an essential element is dishonesty; or

(C) A crime that is directly related to the practice of engineering.

(b) In addition to any other penalty provided in this section, a person who violates this chapter or a rule of the board shall pay to the board a civil penalty in an amount determined by the board of not more than five thousand dollars (\$5,000) for each offense.

(c)(1) The board shall adopt rules of professional conduct under § 17-30-203 that shall be published in writing to an applicant for licensure under this chapter and published in the roster.

(2) The publication shall constitute due notice to the licensees.

(3) The board may amend the rules of professional conduct from time to time and shall notify each licensee in writing of the amendments.

(d) The board may:

(1) Revoke a certificate of authorization;

(2) Suspend a certificate of authorization for no more than two (2) years of a firm if one (1) or more of its officers or directors have been found guilty of conduct that would authorize a revocation or suspension of the certificate of licensure of the officer or director under this section;

(3) Place a licensee on probation under rules prescribed by the board; or

(4) Levy a fine of not more than five thousand dollars (\$5,000) for each offense.

(e) The board may discipline nonlicensees that violate this chapter by imposing a fine of not more than five thousand dollars (\$5,000) for each offense.

**History.** Acts 1953, No. 214, § 4; A.S.A. 1947, § 71-1021; Acts 1993, No. 1041, § 3; 2009, No. 444, § 4; 2011, No. 897, § 6; 2019, No. 990, § 35. **Amendments.** The 2019 amendment added "listed under § 17-3-102" in (a)(2)(A).

## CHAPTER 31

### FORESTERS

#### SUBCHAPTER.

#### 2. ARKANSAS STATE BOARD OF REGISTRATION FOR FORESTERS.



SUBCHAPTER.

3. CERTIFICATE OF REGISTRATION.

SUBCHAPTER 2 — ARKANSAS STATE BOARD OF REGISTRATION FOR FORESTERS

SECTION.

17-31-201. Creation — Selection and compensation of members.  
17-31-204. Powers.

SECTION.

17-31-205. [Repealed.]  
17-31-207. Records and reports.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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**17-31-201. Creation — Selection and compensation of members.**

(a) The Arkansas State Board of Registration for Foresters is created to administer the provisions of this chapter.

(b)(1) The board shall consist of six (6) members appointed by the Governor, with the advice and consent of the Senate. Each member shall be a citizen of the United States and a registered voter and resident of the State of Arkansas.

(2)(A) Five (5) members of the board shall be foresters registered under § 17-31-302 and who have been engaged in forestry for at least twelve (12) years.

(B)(i) One (1) member shall be nominated by the Arkansas Forestry Association to represent the forest products industry.

(ii) One (1) member shall be nominated by the Arkansas Forestry Commission to represent the Arkansas Forestry Commission.

(iii) One (1) member shall be nominated by the Provost of the University of Arkansas at Monticello from the faculty or staff of the College of Forestry, Agriculture and Natural Resources at the University of Arkansas at Monticello.

(iv) One (1) member shall be nominated by the Arkansas Division, Ouachita Society of American Foresters.

(v) One (1) member shall be nominated by the Association of Consulting Foresters, Inc., Arkansas Chapter to represent private forestry consultants.

(C) At least one (1) member shall be a graduate of the College of Forestry, Agriculture and Natural Resources at the University of Arkansas at Monticello.

(3) One (1) member of the board shall not be actively engaged in or retired from the forestry profession. That member shall represent consumers. He or she shall be appointed from the state at large and shall be a full voting member but shall not participate in the grading of examinations.

(c) Appointments shall be for a term of five (5) years or, in the event of vacancies, for the period of the unexpired term of the vacancy being filled.

(d) Each member of the board shall receive a certificate of appointment from the Governor and before beginning the term of office shall file with the Secretary of State a written oath or affirmation relative to the faithful discharge of the official duty.

(e) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

**History.** Acts 1969, No. 535, §§ 4-6; 1971, No. 122, § 1; 1977, No. 113, §§ 1-3; 1981, No. 717, § 2; A.S.A. 1947, §§ 6-617 — 6-619, 71-2404 — 71-2406; Acts 1997, No. 250, § 139; 1999, No. 993, § 5; 2011, No. 177, § 1; 2019, No. 910, § 97.

**Amendments.** The 2019 amendment substituted the first occurrence of “Arkansas Forestry Commission” for “State Forester” in (b)(2)(B)(ii).

### **17-31-204. Powers.**

(a) The Arkansas State Board of Registration for Foresters shall have the power to make, adopt, alter, amend, and promulgate all bylaws and rules consistent with the Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

(b) The board shall adopt and have an official seal.

(c) Each member of the board shall have power to administer oaths. The board shall have power to subpoena witnesses and compel the production of books and papers pertinent to any investigation or hearing authorized by this chapter. Any employee of the Department of Agriculture engaged in making any investigation on behalf of the board shall have the power to administer oaths to and take depositions of persons pertaining to any investigation. The board may require any law enforcement officer of any state agency, the sheriffs of the various counties, or other law enforcement officers of any county or municipality to serve subpoenas and other process of the board. When county, municipal, or other local officers are required to serve subpoenas or other process of the board, they shall be paid the same fees by the board as are provided by laws for similar services under process issued by circuit courts.

(d) If any person shall refuse to testify or produce any books, papers, or documents, the board may proceed by rule, in the circuit court of the county where the person is domiciled or is engaged in business, to have



the person adjudged guilty of contempt. In the event the rule is made absolute, the circuit court shall punish the person for contempt of court. The person shall be permitted to purge himself or herself of contempt by compliance with such order as the court may render.

**History.** Acts 1969, No. 535, § 9; A.S.A. 1947, § 71-2409; Acts 2019, No. 910, § 98. “the Department of Agriculture” for “the board” and inserted “on behalf of the board”.

**Amendments.** The 2019 amendment, in the second sentence of (c), substituted

### 17-31-205. [Repealed.]

**Publisher’s Notes.** This section, concerning staff and employees, was repealed by Acts 2019, No. 910, § 99, effective July 1, 2019. The section was derived from Acts 1969, No. 535, § 8; A.S.A. 1947, § 71-2408.

### 17-31-207. Records and reports.

(a) The Arkansas State Board of Registration for Foresters shall keep a record of its proceedings and a register of all applications. The register shall show:

- (1) The name, age, and residence of each applicant;
- (2) The date of the application;
- (3) The place of business of such an applicant;
- (4) His or her education and other qualifications;
- (5) Whether or not an examination was required;
- (6) Whether the applicant was rejected;
- (7) Whether a certificate of registration was granted;
- (8) The date of action of the board; and
- (9) Such other information as may be deemed necessary by the board.

(b) A roster showing the names and places of business of all foresters registered under this chapter shall be published by the Secretary of the Arkansas State Board of Registration for Foresters during the month of April each year. Copies of this roster shall be mailed to each person so registered, placed on file with the Secretary of State, and furnished to the public on request.

(c) The records of the board shall be prima facie evidence of the proceedings of the board.

(d) A transcript of the records of the board, certified by the Secretary of the Arkansas State Board of Registration for Foresters under seal, shall be admissible in evidence with the same force and effect as if the originals were produced.

(e) [Repealed.]

**History.** Acts 1969, No. 535, §§ 11, 12; A.S.A. 1947, §§ 71-2411, 71-2412; Acts 2019, No. 910, § 100. **Amendments.** The 2019 amendment repealed (e).

**SUBCHAPTER 3 — CERTIFICATE OF REGISTRATION****SECTION.**

17-31-302. Qualifications.

17-31-303. Application for registration.

17-31-304. Examinations.

**SECTION.**

17-31-307. Expiration and renewal.

17-31-309. Revocation — Grounds — Proceedings.

**17-31-302. Qualifications.**

The applicant must pass a written examination on basic forestry subjects administered by the Arkansas State Board of Registration for Foresters with a score established by the board along with the following minimum evidence that an applicant is qualified to be registered as a forester:

(1) A bachelor's or advanced degree in forestry from a college or university program accredited by the Society of American Foresters;

(2) A bachelor's or advanced degree in forestry from a college or university program not accredited by the Society of American Foresters and, subject to graduation, three (3) years or more experience in forestry work of a nature satisfactory to the board;

(3) A bachelor's degree in a natural resources-related field from a college or university program, including, but not limited to, wildlife management, with at least twenty (20) semester hours of forestry courses approved by the board and, subsequent to graduation, three (3) years' or more experience in forestry work of a nature satisfactory to the board;

(4) A bachelor's degree not related to natural resources from a college or university program and, subsequent to graduation, six (6) years' or more experience in forestry work of a nature satisfactory to the board; or

(5) A two-year associate's degree in forestry and, subsequent to graduation, six (6) years' or more experience in forestry work of a nature satisfactory to the board.

**History.** Acts 1969, No. 535, § 13; 1973, No. 245, § 1; A.S.A. 1947, § 71-2413; Acts 1999, No. 993, § 9; 2011, No. 177, § 2; 2019, No. 257, § 1.

**Amendments.** The 2019 amendment

deleted "from a community college or junior college" following the first occurrence of "forestry", and deleted "of" preceding "experience" in (5).

**17-31-303. Application for registration.**

(a) Application for registration shall:

(1) Be on forms prescribed and furnished by the Arkansas State Board of Registration for Foresters;

(2) Contain statements under oath giving a detailed summary of the applicant's education and technical experience; and

(3) Contain the names and addresses of not fewer than five (5) references, of whom three (3) or more shall be registered foresters who have personal or professional knowledge of the applicant's forestry experience or his or her character and ability.



(b) The amount of the application fee and the registration fee shall be set annually by the board.

(c) [Repealed.]

**History.** Acts 1969, No. 535, § 14; 1971, No. 122, § 2; A.S.A. 1947, § 71-2414; Acts 1999, No. 993, § 10; 2011, No. 177, § 3; 2019, No. 990, § 36.

**Amendments.** The 2019 amendment repealed (c).

### 17-31-304. Examinations.

(a) When written examinations are required, they shall be held at such times and places as the Arkansas State Board of Registration for Foresters shall determine.

(b) The scope of the examinations and the methods of procedure shall be prescribed by the board.

(c) A candidate who fails an examination may apply for another examination.

(d) Subsequent examinations will be granted only upon payment of the prescribed fee.

**History.** Acts 1969, No. 535, § 15; A.S.A. 1947, § 71-2415; Acts 2019, No. 257, § 2. deleted "at the expiration of six (6) months from the date of failure of the prior examination" from the end of (c).

**Amendments.** The 2019 amendment

### 17-31-307. Expiration and renewal.

(a) Certificates of registration shall expire on December 31 of the year for which issued or renewed and shall become invalid thereafter unless renewed.

(b) The Secretary of the Arkansas State Board of Registration for Foresters shall notify by letter to the last known address every person registered under this chapter of the date of the expiration of the certificate and the amount of the fee required for its renewal of one (1) year. Notice shall be delivered at least one (1) month in advance of the date of the expiration of such a certificate.

(c)(1) The Arkansas State Board of Registration for Foresters shall require persons who are licensed under this subchapter to complete not fewer than six (6) hours of continuing forestry education during the previous year beginning January 1, 2001, as a condition of license renewal. Continuing forestry education shall be equivalent to the Society of American Foresters Category I for continuing forestry education which includes, but is not limited to, seminars, short courses, and workshops in forestry or a related subject matter as approved by the board.

(2) Credit accrues at a rate of one (1) hour for each hour of actual contact.

(3) The board may approve continuing forestry education courses offered by professional organizations, institutions of higher education, qualified individuals, or specialty societies. The board may approve

credit hours for meetings, presentations, or other activities considered by the board to be a form of continuing forestry education.

(4) A successful applicant for licensure under this subchapter shall have two (2) years from the date the license is issued to complete the first year's requirements for continuing forestry education. After two (2) years, the registered forester shall complete the continuing forestry education requirements as required by this subsection.

(d) The board may waive the continuing forestry education requirements in cases of hardship, illness, or retirement from active forestry practice.

(e) The board may promulgate rules to ensure compliance with the requirements of this section.

(f) Renewal of a certificate of registration shall be for a fee set annually by the board.

(g) The failure on the part of any registrant to renew the certificate annually in the month of December as required in this section shall not deprive the person of the right of renewal, but the fee to be paid for the renewal of a certificate after December 31 shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. However, the maximum fee for delayed renewal shall not exceed two (2) times the annual renewal fee.

<b>History.</b> Acts 1969, No. 535, § 17; 1971, No. 122, § 3; A.S.A. 1947, § 71-2417; Acts 1999, No. 993, § 11; 2011, No. 177, § 4; 2019, No. 315, § 1402.	<b>Amendments.</b> The 2019 amendment deleted "and regulations" following "rules" in (e).
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### 17-31-309. Revocation — Grounds — Proceedings.

(a) The Arkansas State Board of Registration for Foresters may receive and investigate complaints against registered foresters and make findings thereon.

(b)(1) The board may revoke the certificate of any registered forester who has been convicted of a felony listed under § 17-3-102 or who is found guilty by the board of any fraud, deceit, gross negligence, misrepresentation, willful violation of contract, misconduct, or gross incompetence.

(2) The board shall investigate such charges.

(c) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three (3) months after the date on which they are presented to the board.

(d) Before the board shall revoke the certificate of any registered forester, the board shall conduct a hearing, the time and place for which shall be fixed by the board. A copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed by registered letter to the last known address of the registered forester at least thirty (30) days before the date fixed for the hearing.

(e) At any hearing, the accused registered forester shall have the right to appear personally and, by counsel, to cross-examine witnesses appearing against him or her and to produce evidence and witnesses in his or her own defense.



(f) A written record, including the testimony of all witnesses, shall be made and filed by the Secretary of the Arkansas State Board of Registration for Foresters.

(g) If the accused registered forester is found guilty of the charges made against him or her, the board shall revoke his or her certificate of registration.

(h) A registered forester whose certificate of registration has been revoked may apply for a review of the proceedings of the board by any court of competent jurisdiction within sixty (60) days following the action of the board. The petition to the circuit court shall set out in detail what adverse action of the board was erroneous. After citation of the board as provided by law and full hearing, the court shall make such decree sustaining or reversing the action of the board as may seem just and proper.

**History.** Acts 1969, No. 535, § 20; A.S.A. 1947, § 71-2420; Acts 2019, No. 990, § 37. added the (b)(1) and (b)(2) designations; and inserted "listed under § 17-3-102" in (b)(1).

**Amendments.** The 2019 amendment

## CHAPTER 32

## GEOLOGISTS

### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. STATE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS.
3. REGISTRATION.

### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

17-32-104. Legal and other assistance.

#### 17-32-104. Legal and other assistance.

(a) The Attorney General or one of his or her assistants shall act as legal adviser to the State Board of Registration for Professional Geologists and render legal assistance needed to implement and enforce the provisions of this chapter and the rules of the board.

(b) The board may employ additional counsel with approval of the Attorney General and any other necessary assistance to aid in the enforcement of this chapter and the rules of the board.

(c) The board may pay reasonable expenses incurred by the board for the administration of this chapter.

**History.** Acts 1987, No. 470, § 27; 1987, No. 701, § 28; 2005, No. 676, § 3; 2019, No. 315, § 1403. deleted "and regulations" following "rules" in (a); and substituted "rules" for "regulations" in (b).

**Amendments.** The 2019 amendment

## SUBCHAPTER 2 — STATE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

## SECTION.

17-32-201. Creation — Members — Compensation.

17-32-202. Meeting — Notice.

17-32-204. Powers and duties generally.

17-32-207. Official records and registers — Publication and accounting.

## SECTION.

17-32-208. Director of the State Board of Registration for Professional Geologists — Indebtedness.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 17-32-201. Creation — Members — Compensation.

(a)(1) There is created the State Board of Registration for Professional Geologists.

(2) It shall be the duty of the board to administer this chapter and promulgate rules for registration of qualified geological applicants.

(3) The board shall comprise:

(A) Five (5) members who shall be registered geologists, one (1) of whom shall be an academic geologist, one (1) a governmental geologist, one (1) a salaried company geologist, one (1) an independent or consultant geologist, and one (1) a geologist-at-large;

(B) One (1) additional member who shall be appointed from the public at large and who shall have no connection whatsoever with the practice of geology; and

(C) The Director of the Arkansas Geological Survey, or his or her designated agent, as a permanent ex officio member.

(b) The members of the board shall be appointed by the Governor and confirmed by the Senate.

(c) Each member of the board shall be a citizen of the United States and shall have been a resident of this state for the two (2) years immediately preceding his or her appointment.

(d) The members shall serve five-year terms.

(e) No person shall serve as a member of the board for more than one (1) consecutive five-year term.



(f) The Governor may remove any member of the board for misconduct, incompetency, neglect of duty, or any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor.

(g) Before entering upon the discharge of their duty, the members of the board shall subscribe to and file with the Secretary of State the constitutional oath of officers, whereupon the Secretary of State shall issue to each appointee a certificate of appointment.

(h) The members of the board may receive expense reimbursement in accordance with § 25-16-901 et seq. Board members shall serve without compensation.

**History.** Acts 1987, No. 470, § 3; 1987, No. 701, § 3; 1997, No. 250, § 140; 2019, No. 315, § 1404; 2019, No. 910, § 5426.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(2).

The 2019 amendment by No. 910 substituted “Board members shall” for “Board members, except the Secretary-treasurer of the State Board of Registration for the Professional Geologists, shall” in the last sentence in (h).

### 17-32-202. Meeting — Notice.

(a) The State Board of Registration for Professional Geologists shall hold a meeting within thirty (30) days after appointment and thereafter shall hold at least two (2) regular meetings each year.

(b)(1) An affirmative vote of a majority of a quorum present shall be necessary to transact business.

(2) The Chair of the State Board of Registration for Professional Geologists shall not vote unless there is a tie vote among the board members, in which case his or her vote will be allowed for a majority.

(c) Rules adopted by the board may provide for such additional regular meetings as necessary and for special meetings.

(d) Notice of all meetings shall be given as may be provided in the rules.

**History.** Acts 1987, No. 470, § 4; 1987, No. 701, § 4; 2019, No. 315, § 1405.

substituted “Rules” for “Regulations” in (c) and made a similar change in (d).

**Amendments.** The 2019 amendment

### 17-32-204. Powers and duties generally.

In addition to other powers and duties specified in this chapter, the State Board of Registration for Professional Geologists shall:

(1) Adopt, after notice and public hearing, modify, repeal, promulgate, and enforce rules reasonably necessary to:

(A) Implement or effectuate its powers and duties;

(B) Regulate proceedings before the board; and

(C) Define terms in this chapter that are otherwise undefined, including, but not limited to, the professional services, works, and activities that constitute the public practice of geology as defined in § 17-32-102;

(2) Be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(3) Adopt and have an official seal; and

(4) Have such other powers and duties as are necessary to implement this chapter.

**History.** Acts 1987, No. 470, § 5; 1987, No. 701, § 5; 2005, No. 676, § 5; 2019, No. 315, § 1406.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in the introductory language of (1).

### **17-32-207. Official records and registers — Publication and accounting.**

(a)(1) The State Board of Registration for Professional Geologists shall keep a public record of its proceedings and a register of all applications for registration.

(2) The register shall show:

(A) The name, age, and residence of each applicant;

(B) The date of application;

(C) The place of business of the applicant;

(D) The applicant's education and other qualifications;

(E) Whether or not an examination was required;

(F) Whether the applicant was registered;

(G) Whether a certificate of registration was granted;

(H) The dates of the action by the board; and

(I) Such other information as may be deemed necessary by the board.

(b) All official records of the board, or affidavits by the Director of the State Board of Registration for Professional Geologists as to the content of such records, shall be prima facie evidence of all matters required to be kept therein.

(c)(1) A complete roster showing the names, the classification, which will be geologist, specialty, or geologist-in-training, and the last known address of the registered geologists or certified geologists-in-training shall be published by the director one (1) time each year or at such intervals as established by board rules.

(2) Copies of the roster shall be placed on file with the Secretary of State and county officials.

(3) Copies may be sent to cities requesting the information and may be distributed or sold to the public.

(d) At the end of the fiscal year, the board shall submit to the Secretary of the Department of Labor and Licensing and the General Assembly a complete statement of the receipts and expenditures of the board.

(e) The board records shall be subject to audit by Arkansas Legislative Audit.

**History.** Acts 1987, No. 470, § 8; 1987, No. 701, § 8; 2005, No. 676, § 6; 2019, No. 315, § 1407; 2019, No. 910, §§ 5427-5429.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (c)(1).



The 2019 amendment by No. 910 substituted “Director of the State Board of Registration for Professional Geologists” for “Secretary-treasurer of the State Board of Registration for Professional Geologists” in (b); substituted “director” for “secretary-treasurer” in (c)(1); and substituted “Secretary of the Department of Labor and Licensing” for “Governor” in (d).

**17-32-208. Director of the State Board of Registration for Professional Geologists — Indebtedness.**

(a)(1) The Director of the State Board of Registration for Professional Geologists shall receive and account for all moneys received in accordance with state law and the rules of the State Board of Registration for Professional Geologists.

(2) These moneys shall be deposited into a financial institution located in this state and shall be disbursed only by the director.

(b) The director shall receive such salary as the board in consultation with the Secretary of the Department of Labor and Licensing determines within the limits set forth by the General Assembly.

(c) The Department of Labor and Licensing shall employ assistants required to properly perform the board’s work and shall make expenditures from this account for any purpose that, in the opinion of the board, is reasonably necessary to perform its duties under law and its rules.

(d) The board shall have no authority to incur indebtedness.

**History.** Acts 1987, No. 470, § 6; 1987, No. 701, § 6; 2019, No. 315, §§ 1408, 1409; 2019, No. 910, § 5430.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(1); and deleted “and regulations” at the end of (c).

The 2019 amendment by No. 910 substituted “Director of the State Board of Registration for Professional Geologists”

for “Secretary-treasurer, assistants” at the beginning of the section heading; substituted “Director” and “director” for “Secretary-treasurer” and “secretary-treasurer” in (a)(1), (a)(2), and (b); inserted “in consultation with Secretary of the Department of Labor and Licensing” in (b); and, in (c), substituted “Department of Labor and Licensing” for “board” and “the board’s work” for “its work”.

**SUBCHAPTER 3 — REGISTRATION**

SECTION.

17-32-304. Minimum qualifications — Ability of applicant — Geologist-in-training certificate.

SECTION.

17-32-309. Certification in specialty.  
17-32-311. Denial, etc., of registration certificate — Grounds — Procedure.

**17-32-304. Minimum qualifications — Ability of applicant — Geologist-in-training certificate.**

(a) To be eligible for a certificate of registration, an applicant shall meet each of the following minimum qualifications:

(1) [Repealed.]

(2) Have graduated from an accredited college or university with a major in either geology, engineering geology, geological engineering, or

an earth science-related major that has been approved by the State Board of Registration for Professional Geologists; and

(3)(A) Have at least seven (7) years of professional geological work which shall include either:

(i) A minimum of three (3) years of professional geological work under the supervision of a registered geologist, except that before July 20, 1987, professional geological work shall qualify under this subdivision (a)(3)(A) if it is under the supervision of a qualified geologist; or

(ii) A minimum of five (5) years of experience in responsible charge of geological work.

(B) The following criteria of education and experience qualify, as specified, toward accumulation of the required seven (7) years of professional geological work:

(i) Each year of undergraduate study in the geological sciences shall count as one-half ( $\frac{1}{2}$ ) year of training up to a maximum of two (2) years, and each year of graduate study shall count as one (1) year of training;

(ii) Credit for undergraduate study, graduate study, and graduate courses, individually or in any combination thereof, shall in no case exceed a total of four (4) years toward meeting the requirements for at least seven (7) years of professional geological work as set forth in subdivision (a)(3)(A) of this section; and

(iii) In lieu of the professional geological work as set out in this section, the board may consider the cumulative total of professional geological work or geological research of persons teaching at the college or university level if the work or research can be demonstrated to be of a sufficiently responsible nature to be equivalent to the professional requirements of this chapter.

(b) The ability of the applicant shall have been demonstrated by:

(1) His or her having performed the work in a responsible position as determined by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in rules adopted by the board; and

(2) The successful passage of such examinations as are established by the board, except that in place of an examination, the board may find that the receiving of a degree in geologic science may be judged by the board as evidence of sufficient knowledge and skill to qualify for registration.

(c)(1) The board may issue a geologist-in-training certificate to any applicant who meets all qualifications, including successful passage of the geological examination, except the required time of professional geological work.

(2) An applicant with a geologist-in-training certificate shall be awarded full registration upon presentation of:

(A) Proof that the required time of professional geologic work has been completed; and



(B) Names and addresses of three (3) qualified geologists and two (2) persons who can attest to the applicant's personal character and ethics.

**History.** Acts 1987, No. 470, § 12; 1987, No. 701, § 12; 1991, No. 1176, § 1; 2005, No. 676, § 8; 2019, No. 315, § 1410; 2019, No. 990, § 38. by No. 315 substituted "rules" for "regulations" in (b)(1). The 2019 amendment by No. 990 repealed (a)(1).

**Amendments.** The 2019 amendment

### 17-32-309. Certification in specialty.

(a) In addition to registering as a geologist, qualified persons may also be eligible for certification in a specialty. Specialties may be designated by the State Board of Registration for Professional Geologists by rule, with the rules to contain any required additional qualifications. Only a registered geologist is eligible for certification in a specialty. Application may be submitted for both registration as a geologist and certification in a specialty at the same time, but the applicant must be approved for registration as a geologist before being considered for certification in a specialty. The certification in a specialty is dependent, in every case, upon the approval of registration as a geologist.

(b) An applicant for certification in a specialty shall meet all of the requirements of a registered geologist and such other requirements as the board may establish by rule. In addition, his or her seven (7) years of professional geological work shall include one (1) of the following:

(1) A minimum of three (3) years performed under the supervision of a registered geologist who is certified in the specialty for which the applicant is seeking certification; or

(2) A minimum of five (5) years of experience in responsible charge of geological work in the specialty for which the applicant is seeking certification.

**History.** Acts 1987, No. 470, § 19; 1987, No. 701, § 20; 2019, No. 315, § 1411. substituted "rule" for "regulation" in the second sentence of (a) and in the first sentence of (b) and made a similar change

**Amendments.** The 2019 amendment in the second sentence of (a).

### 17-32-311. Denial, etc., of registration certificate — Grounds — Procedure.

(a) The State Board of Registration for Professional Geologists shall have the power to deny, suspend, revoke, or refuse to renew the certificate of registration of any registrant who is found to have been involved in:

(1) The practice of any fraud or deceit in obtaining a certificate of registration;

(2) Any gross negligence, incompetence, or misconduct in the practice of geology as a professional geologist;

(3) Any felony listed under § 17-3-102;

- (4) Providing false testimony or information to the board;
  - (5) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;
  - (6) Signing, affixing the professional geologist's seal, or permitting the professional geologist's seal or signature to be affixed to any specifications, reports, drawings, plans, design information, construction documents, calculations, or revisions that have not been prepared or completely checked by the professional geologist or prepared under the professional geologist's direct supervision or control;
  - (7) Failing to comply with this chapter or any of the rules pertaining to this chapter; or
  - (8) Aiding or assisting another person in violating any provision of this chapter or the rules pertaining to this chapter.
- (b) Any action by the board in this regard shall be after a hearing held in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. Any administrative or judicial review of the action shall likewise be in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 1987, No. 470, § 17; 1987, No. 701, § 18; 2005, No. 676, § 10; 2019, No. 315, § 1412; 2019, No. 990, § 39. by No. 315 deleted "or regulations" following "rules" in (a)(8). The 2019 amendment by No. 990 added "listed under § 17-3-102" in (a)(3).

**Amendments.** The 2019 amendment

## CHAPTER 33

### HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION WORKERS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. HVACR LICENSING BOARD.
3. LICENSING GENERALLY.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

- 17-33-102. Exemptions.  
17-33-105. Penalties — No enforcement of liens.

#### 17-33-102. Exemptions.

- (a) This chapter shall not apply to:
  - (1) Household appliances;
  - (2) American Gas Association-approved unvented space heaters;
  - (3) Factory assembled air-cooled, self-contained refrigeration equipment of one and one-half horsepower (1.5 h.p.) or less and which have no refrigerant lines extending beyond the cabinet enclosure;



(4) Factory assembled air-cooled, self-contained, window-type air conditioning units of thirty-six thousand (36,000) BTUH or less not connected to ducts;

(5) Window, attic, ceiling, and wall fans in residences; or

(6) Poultry operations whether engaged in hatching, primary processing, or further processing of chicken, turkey, or other fowl.

(b) This chapter shall not apply to a person who:

(1) Performs HVACR work in an existing building or structure owned and occupied by him or her as his or her home;

(2) Performs HVACR work in an existing building or structure owned or occupied by him or her on his or her farm;

(3) Performs work for public utilities on construction, maintenance, and development work that is incidental to his or her business;

(4) Performs work on motor vehicles;

(5) Is an architect or registered engineer who designs HVACR systems for design criteria only;

(6) Is an employee of a hospital and performs HVACR work that is incidental to the hospital's operation;

(7) Installs or does maintenance work on a gas-fired floor furnace, wall furnace, or unit heater, if the person is licensed pursuant to § 17-38-301 et seq. and the work is performed within the limitations of the person's license; or

(8) Is a pipefitter, welder, well driller, sheet metal worker, or plumber working under a Class A, Class B, Class D, or Class E licensee and who is enrolled in or has satisfactorily completed an apprenticeship training program approved by the State of Arkansas in his or her respective trade, and whose work is performed within the limitations of the person's license.

(c) The provisions of this chapter shall not apply to a person or public entity serving or repairing its own HVACR system by its own personnel specifically trained for such service or repair.

(d) Any person exempt under this section is required to conform to rules on the performance of HVACR work as well as obtaining local permits and inspections as may be required by local ordinance.

**History.** Acts 1991, No. 277, § 6; 1997, No. 344, § 1; 1999, No. 465, § 2; 2003, No. 748, § 1; 2019, No. 315, § 1413.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in (d).

### 17-33-105. Penalties — No enforcement of liens.

(a)(1)(A)(i) Any person who violates any provision of this chapter or violates any rule or order of the HVACR Licensing Board or any permit, license, or certification may be assessed a civil penalty by the board in accordance with the rules issued by the board.

(ii) The penalty shall not exceed two hundred fifty dollars (\$250) for each violation, and each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

(B) However, no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation.

(2) The amount of any civil penalty levied by the board may be recovered in a civil action brought by the board in a court of competent jurisdiction without paying costs or giving bond for costs.

(b) In addition to the civil penalty provided in this section, the board is authorized to petition any court of competent jurisdiction without paying costs or giving bond for costs to:

(1) Enjoin or restrain any violation of or compel compliance with the provisions of this chapter and any rules or orders issued thereunder;

(2) Affirmatively order that remedial measures be taken as may be necessary or appropriate to implement or effectuate the purposes and intent of this chapter; and

(3) Recover all costs, expenses, and damages to the board and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter.

(c) If an unlicensed person who is required to be licensed performs HVACR work in violation of this subchapter, that person shall not be entitled to a mechanic's and materialman's lien, a laborer's lien, a repairmen's lien, or any other artisan's lien for work done in violation of this subchapter.

<b>History.</b> Acts 1991, No. 277, § 18; 1999, No. 465, § 3; 2001, No. 1563, § 1; 2019, No. 315, §§ 1414, 1415.	deleted "regulation" following "rule" in (a)(1)(A)(i) and made a similar change in (b)(1); and substituted "rules" for "regulations" in (a)(1)(A)(i).
<b>Amendments.</b> The 2019 amendment	

SUBCHAPTER 2 — HVACR LICENSING BOARD

SECTION.  
17-33-201. Creation — Members.  
17-33-202. Powers and duties.

SECTION.  
17-33-205. Disposition.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."



**17-33-201. Creation — Members.**

(a) There is hereby created the HVACR Licensing Board to be composed of nine (9) members appointed by the Governor and confirmed by the Senate. The board shall be composed of the following members who shall be residents of the State of Arkansas:

(1) The secretary of the board shall be a representative of the Department of Labor and Licensing;

(2) Two (2) members of the board shall be Class A license holders whose business is located in the State of Arkansas;

(3) Two (2) members of the board shall be Class B license holders whose business is located in the State of Arkansas;

(4) One (1) member of the board shall be a mechanical engineer registered in the State of Arkansas who is directly associated with HVACR design;

(5) One (1) member of the board shall be a representative of a city or county HVACR inspection program;

(6) One (1) member of the board shall be a consumer with no personal or financial interest in the HVACR industry; and

(7) One (1) member of the board shall be a member of the Mechanical Contractors Association of Arkansas, Inc., who holds a current state contractor's license.

(b) A member shall serve until he or she is replaced by a successor.

(c) No member shall serve more than two (2) successive terms on the board, or until he or she ceases to be qualified as required by this chapter.

(d) The secretary of the board, who shall be an employee of the Department of Labor and Licensing, shall serve at the pleasure of the Governor, and all other members shall serve four-year terms.

(e) Members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

**History.** Acts 1991, No. 277, § 2; 1997, No. 250, § 141; 2019, No. 910, §§ 5431, 5432.

substituted "Department of Labor and Licensing" for "Department of Health" in (a)(1) and (d).

**Amendments.** The 2019 amendment

**17-33-202. Powers and duties.**

The HVACR Licensing Board may:

(1) Adopt certain rules to ensure the proper administration and enforcement of this chapter;

(2) Adopt a mechanical code and standards for the conduct of HVACR work;

(3) Assist and advise the Department of Labor and Licensing on all matters related to the licensing of HVACR maintenance work;

(4) Conduct hearings on all matters related to the licensing and inspection of HVACR work;

(5) Establish HVACR code inspection programs;

(6) Conduct investigations into the qualifications of applicants for licensure at the request of the department;

(7) Review applications for examination for a Class A, Class B, Class C, Class D, Class E, and Class L license;

(8) Establish by board rule a minimum level of general liability insurance coverage for a license if the board determines that a specific class of license requires insurance coverage;

(9) Establish by board rule a maximum of four (4) hours per year of continuing education if the board determines that a specific class of license requires continuing education;

(10) Assist and advise the department in other such matters as requested by the department; and

(11) Establish fees for the proper administration of the requirements of this chapter.

**History.** Acts 1991, No. 277, § 3; 1999, No. 465, § 4; 2003, No. 1712, § 1; 2019, No. 315, §§ 1416, 1417; 2019, No. 910, § 5433; 2021, No. 978, § 1.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rule” in (1); and substituted “rule” for “regulation” in (8).

The 2019 amendment by No. 910 substituted “Department of Labor and Licensing” for “Department of Health” in (3).

The 2021 amendment inserted (9) and redesignated former (9) and (10) as (10) and (11).

### 17-33-205. Disposition.

(a)(1) All fees or payments of any type collected by the HVACR Licensing Board under this chapter shall be deposited into the State Treasury as special revenues, and the Treasurer of State shall credit those fees or payments to the “HVACR Licensing Fund” which is hereby created.

(2)(A) All funds deposited into the HVACR Licensing Fund shall be used for the maintenance, operation, and improvement of the HVACR Licensing and Inspection Program of the Department of Labor and Licensing.

(B) The Chief Fiscal Officer of the State is hereby authorized, from time to time, to make transfers of moneys from the Budget Stabilization Trust Fund as loans to the HVACR Licensing Fund to be used for maintenance and operation of the program. Provided, that any such moneys loaned from the Budget Stabilization Trust Fund to the HVACR Licensing Fund shall be repaid from fees derived from the program on or before the last day of the fiscal year in which the loan of the funds is made.

(3) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Labor and Licensing is hereby authorized to transfer all unexpended funds relative to the program that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.



(b) Any moneys received from the sale or trade of motor vehicles and other capital equipment purchased with HVACR licensing funds shall be credited to the HVACR Licensing Fund.

**History.** Acts 1991, No. 277, §§ 19, 20; 2019, No. 315, § 1418; 2019, No. 910, §§ 5434, 5435.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a)(3).

The 2019 amendment by No. 910 substituted “Department of Labor and Licensing” for “Department of Health” in (a)(2)(A) and (a)(3).

SUBCHAPTER 3 — LICENSING GENERALLY

SECTION.	SECTION.
17-33-303. Classes of licenses.	17-33-307. Grounds for suspension or re-
17-33-304. Display of license number.	vocation.
17-33-306. Expiration and renewal.	

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-33-303. Classes of licenses.

- (a) Except as otherwise provided in this chapter, every individual who designs, installs, constructs, maintains, services, repairs, alters, or modifies any HVACR system or any portion of an HVACR system in the State of Arkansas shall obtain one (1) of the following classes of licenses and pay the fees prescribed by the HVACR Licensing Board:
- (1) Class A — Entitles the licensee to perform HVACR work without limitation to BTUH or horsepower capacities;
  - (2) Class B — Entitles the licensee to perform HVACR work on air conditioning systems that develop a total of not more than fifteen (15) tons of cooling capacity per unit or one million (1,000,000) BTUH heating input per unit and refrigeration systems of fifteen horsepower (15 h.p.) or less per unit;
  - (3) Class C — Entitles the licensee who is in the business of servicing and repairing heating, ventilation, air conditioning, or refrigeration equipment for the public to service, repair, or replace components of HVACR equipment and to perform HVACR work on air conditioning systems that develop a total of not more than fifteen (15) tons of cooling

capacity per unit or one million (1,000,000) BTUH heating input per unit and refrigeration systems of fifteen horsepower (15 h.p.) or less per unit. A Class C license holder shall not install any original HVACR equipment or replace any existing HVACR equipment;

(4) Class D — Entitles the licensee to perform sheet metal work as it relates to ductwork for HVACR systems without regard to or limitation of horsepower of the system to which the duct connects. The licensee in this category is prohibited from the sale, installation, and service of HVACR equipment and systems;

(5) Class E — Entitles the licensee to perform refrigeration work as defined in § 17-33-101 without regard to or limitation of horsepower. The licensee in this category is prohibited from the sale, installation, and service of heating and air conditioning equipment used for the treatment of air for human comfort requirements; and

(6) Class L — Entitles a licensee to apply for and obtain a restricted lifetime license without having to pay a license fee in any specific category of license as defined in this chapter. The applicant must be at least sixty-five (65) years of age and hold a current license in good standing with the board. The board shall promulgate rules to define the specific requirements of the lifetime license.

(b) The board shall promulgate rules necessary to carry out the provisions of this section.

(c)(1) An individual may perform HVACR work under a Class A, Class B, Class C, Class D, or Class E HVACR license holder by registering with the Department of Health.

(2) The registrant shall pay an annual registration fee as required by the board.

(3) All licensees are responsible for ensuring that all HVACR employees hold a current HVACR registration or HVACR license.

**History.** Acts 1991, No. 277, § 7; 1999, No. 465, § 6; 2019, No. 315, §§ 1419, 1420.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in the third sentence of (a)(6) and in (b).

### 17-33-304. Display of license number.

Every individual licensed under this chapter shall display his or her HVACR license number on all his or her business vehicles and in all forms of advertising in a manner prescribed by the rules promulgated by the HVACR Licensing Board.

**History.** Acts 1991, No. 277, § 15; 2019, No. 315, § 1421.

deleted “and regulations” following “rules”.

**Amendments.** The 2019 amendment

### 17-33-306. Expiration and renewal.

All licenses or registrations issued under this chapter shall expire one (1) year after the date of issuance or at a time specified by the HVACR Licensing Board of the Department of Labor and Licensing. To renew a



license or registration, the licensee must submit to the Department of Labor and Licensing before the expiration date on a form prescribed by the department the appropriate license or registration fees required by this chapter.

**History.** Acts 1991, No. 277, § 12; substituted “Department of Labor and Li-  
2019, No. 910, § 5436. censing” for “Department of Health” in the  
**Amendments.** The 2019 amendment last sentence.

**17-33-307. Grounds for suspension or revocation.**

The HVACR Licensing Board, on its own motion, may make investi-  
gations and conduct hearings and, on its own motion or upon complaint  
in writing signed and verified by the complainant, suspend or revoke  
any license or registration if it finds that the holder of the license or  
registrant has:

- (1) Made a material misstatement in the application for license or  
registration or renewal thereof;
- (2) Demonstrated incompetency to act as a license holder or regis-  
trant according to rules and standards promulgated by the board; or
- (3) Violated any provisions of this chapter or any rule or order  
prescribed by the board.

**History.** Acts 1991, No. 277, § 16; **Amendments.** The 2019 amendment  
2019, No. 315, § 1422. deleted “regulation” following “rule” in (3).

**CHAPTER 35**  
**INTERIOR DESIGNERS**

SUBCHAPTER.  
3. REQUIREMENTS.  
7. STATE BOARD OF REGISTERED RESIDENTIAL INTERIOR DESIGNERS.

**SUBCHAPTER 3 — REQUIREMENTS**

SECTION. SECTION.  
17-35-301. Registration of interior de- 17-35-305. Grounds for revocation.  
signers.

**17-35-301. Registration of interior designers.**

- (a) It is unlawful for a person who is not registered under this  
subchapter, § 17-15-201 et seq., and § 17-35-101 et seq., as an interior  
designer to advertise as a registered interior designer or to use the title  
of “registered interior designer” or any other words, letters, figures, or  
other devices for the purpose of implying, directly or indirectly, that the  
person is registered under this subchapter, § 17-15-201 et seq., and  
§ 17-35-101 et seq.
- (b) It is unlawful for a company, partnership, association, corpora-  
tion, or other similar organization, after January 1, 1994, to advertise  
that it is in a position to provide the services of a registered interior

designer unless the persons providing the services are in the responsible charge of a registered interior designer.

(c) An applicant for registration as a registered interior designer shall establish to the satisfaction of the Arkansas State Board of Architects, Landscape Architects, and Interior Designers that the applicant:

- (1) Is at least twenty-one (21) years of age;
- (2) Has not been convicted of an offense listed under § 17-3-102 that bears directly on the fitness of the applicant to be registered;
- (3) Has passed or supplied proof of passage of the examination required by this subchapter, § 17-15-201 et seq., and § 17-35-101 et seq.; and
- (4) Meets any other requirements established by the board.

**History.** Acts 1993, No. 847, § 9; 2009, No. 1367, § 14; 2011, No. 859, § 7; 2019, No. 990, § 40. **Amendments.** The 2019 amendment inserted "listed under § 17-3-102" in (c)(2).

### 17-35-305. Grounds for revocation.

The Arkansas State Board of Architects, Landscape Architects, and Interior Designers may deny, suspend, or revoke the registration of a registered interior designer upon proof that:

- (1) The holder of the registration is practicing in violation of § 17-15-201 et seq., this chapter, or the proper rules of the board;
- (2) The registration has been obtained by fraud or misrepresentation or the person named therein has obtained it by fraud or misrepresentation;
- (3) Money other than the regular fees provided for has been paid for the registration;
- (4) The holder of the registration is falsely impersonating a practitioner or former practitioner of a like or different name or is practicing under an assumed or fictitious name;
- (5) The holder of the registration has been guilty of a felony listed under § 17-3-102;
- (6) The holder of the registration has been guilty of fraud or deceit or of gross negligence or misconduct in the practice of interior design;
- (7) The holder of the registration affixed, or permitted to be affixed, his or her seal or name to any plans, specifications, drawings, or related documents that were not prepared by the holder or under his or her responsible supervisory control;
- (8) The holder of the registration has been adjudged mentally incapable by a court of competent jurisdiction;
- (9) The holder of the registration has committed gross unprofessional conduct; or
- (10) The holder of the registration has:
  - (A) Had a professional license or registration suspended or revoked;



(B) Had imposed other disciplinary action by a regulatory body of another state for any cause other than failure to pay applicable fees; or

(C) Surrendered or did not renew a professional license or registration after the initiation of any investigation or proceeding by such a body.

**History.** Acts 2009, No. 1367, § 15; 2019, No. 990, § 41.

**Amendments.** The 2019 amendment added “listed under § 17-3-102” in (5).

## **SUBCHAPTER 7 — STATE BOARD OF REGISTERED RESIDENTIAL INTERIOR DESIGNERS**

### **SECTION.**

17-35-702. Powers and duties of the board.

### **17-35-702. Powers and duties of the board.**

The State Board of Registered Residential Interior Designers:

(1) Shall administer, coordinate, and enforce the provisions of this section and §§ 17-35-601 — 17-35-606, 17-35-701, and 17-35-801 — 17-35-803;

(2) May investigate allegations of misconduct and suspend registrations concerning the provisions of this section and §§ 17-35-601 — 17-35-606, 17-35-701, and 17-35-801 — 17-35-803;

(3) Shall adopt rules in the manner prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the purposes and policies of this section and §§ 17-35-601 — 17-35-606, 17-35-701, and 17-35-801 — 17-35-803, including rules relating to professional conduct, standards of performance and professional examination and registration, registration renewal requirements, application, renewal, and late fees, suspension and revocation of registrations, and the establishment of a code of ethics for persons registered under this section and §§ 17-35-601 — 17-35-606, 17-35-701, and 17-35-801 — 17-35-803;

(4) Shall set fees for registration, registration renewals, examinations, and all other administrative expenses;

(5) May require a registrant, as a condition of the renewal of his or her registration, to satisfy continuing education requirements;

(6) Shall maintain an official roster showing the name, address, and registration number of each interior designer registered under this section and §§ 17-35-601 — 17-35-606, 17-35-701, and 17-35-801 — 17-35-803;

(7) Shall require registrants to display their registration numbers on all business and advertising instruments, including business cards, stationery, and contracts;

(8) Shall conduct hearings and keep records and minutes necessary to carry out its functions;

(9) May, to the extent moneys are appropriated therefor, employ an executive secretary and other employees and fix their compensation; and

(10) Shall do all things reasonable and necessary to carry out the purposes of this section and §§ 17-35-601 — 17-35-606, 17-35-701, and 17-35-801 — 17-35-803.

**History.** Acts 1993, No. 959, § 5; 2019, substituted “rules” for “regulations” twice in (a)(3).  
No. 315, § 1423.

**Amendments.** The 2019 amendment

## CHAPTER 36

### LANDSCAPE ARCHITECTS

#### SUBCHAPTER.

#### 3. LICENSING.

#### SUBCHAPTER 3 — LICENSING

#### SECTION.

17-36-303. Examination.

17-36-306. Grounds for revocation.

#### SECTION.

17-36-307. Revocation proceedings.

#### 17-36-303. Examination.

- (a) An applicant for licensure shall:
  - (1) Be at least twenty-one (21) years of age; and
  - (2) Pass an examination covering the matters confronting landscape architects that is prepared by:
    - (A) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers; or
    - (B) Another entity as selected by the Arkansas State Board of Architects, Landscape Architects, and Interior Designers.
- (b) In order to qualify for examination, the applicant must:
  - (1) Hold a degree in landscape architecture from an institution accredited by an appropriate authority selected by the Arkansas State Board of Architects, Landscape Architects, and Interior Designers and have satisfactory experience in landscape architecture of a minimum of two (2) years;
  - (2) Hold a degree in a field related to landscape architecture as determined by the Arkansas State Board of Architects, Landscape Architects, and Interior Designers and have four (4) years of experience in landscape architecture satisfactory to the Arkansas State Board of Architects, Landscape Architects, and Interior Designers; or
  - (3) Have seven (7) years of experience in landscape architecture satisfactory to the Arkansas State Board of Architects, Landscape Architects, and Interior Designers.
- (c) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers may require that an application be accompanied by a certificate from the Council of Landscape Architectural Registra-



tion Boards that documents that the applicant possessed the qualifications for examination under this section.

(d) Examinations for the license shall be administered by the Arkansas State Board of Architects, Landscape Architects, and Interior Designers or its appointed representative at least one (1) time each year if the Arkansas State Board of Architects, Landscape Architects, and Interior Designers has received applications during the period since the last examination was given.

(e) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers shall publish appropriate announcements and shall conduct the examinations at the times designated.

**History.** Acts 1975, No. 353, § 3; 1977, No. 528, § 2; A.S.A. 1947, § 71-2903; Acts 1995, No. 904, § 3; 2001, No. 617, § 14; 2009, No. 1367, § 18; 2019, No. 990, § 42.

**Amendments.** The 2019 amendment deleted former (a)(2) and redesignated (a)(3) as (a)(2).

### 17-36-306. Grounds for revocation.

The Arkansas State Board of Architects, Landscape Architects, and Interior Designers may deny, suspend, or revoke the license of a landscape architect upon proof that:

(1) The holder of the license is practicing in violation of this chapter or in violation of the proper rules of the board governing this chapter;

(2) The license or certificate has been obtained by fraud or misrepresentation or the person named therein has obtained it by fraud or misrepresentation;

(3) Money other than the regular fees provided for has been paid for the license or certificate;

(4) The holder of the license or certificate is falsely impersonating a practitioner or former practitioner of a like or different name or is practicing under an assumed or fictitious name;

(5) The holder of the license or certificate has been found guilty of a felony listed under § 17-3-102;

(6) The holder of the license or certificate has been found guilty of fraud or deceit or of gross negligence or misconduct in the practice of landscape architecture;

(7) The holder of the license or certificate affixed, or permitted to be affixed, his or her seal or name to plans, specifications, drawings, or related documents that were not prepared by the holder or under his or her responsible supervisory control;

(8) The holder of the license or certificate has been adjudged mentally incapable by a court of competent jurisdiction;

(9) The holder of the license has committed gross unprofessional conduct; or

(10) The holder of the license has:

(A) Had a professional license suspended or revoked;

(B) Had imposed other disciplinary action by a regulatory body of another state for any cause other than failure to pay applicable fees; or

(C) Surrendered or did not renew a professional license after the initiation of any investigation or proceeding by such a body.

**History.** Acts 1975, No. 353, § 5; A.S.A. 1947, § 71-2905; Acts 2001, No. 617, § 17; 2009, No. 1367, § 18; 2019, No. 990, § 43. **Amendments.** The 2019 amendment added “listed under § 17-3-102” in (5).

### 17-36-307. Revocation proceedings.

(a)(1) A person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against a licensee. The charges shall be:

(A) In writing;

(B) Sworn to by the person making them; and

(C) Filed with the Arkansas State Board of Architects, Landscape Architects, and Interior Designers.

(2) On its own motion, the board may initiate a proceeding against a licensee.

(b) All charges deemed worthy of consideration by the board shall be investigated by the board.

(c)(1) When the board determines that there is sufficient evidence of a violation of this chapter or board rules, the board may conduct a hearing.

(2) The board shall conduct the hearing under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) If after the hearing the board finds that the individual has violated applicable law, the board may impose any one (1) or more of the following sanctions:

(1) Suspension, revocation, or denial of the license or renewal thereof;

(2) A civil penalty as provided in § 17-15-203;

(3) Require completion of appropriate educational programs or courses;

(4) Require successful completion of the licensing examination;

(5) Place conditions or restrictions upon the licensee’s license or practice; or

(6) Other requirements or penalties as may be appropriate to the circumstances of the case and that would achieve the desired disciplinary purposes.

**History.** Acts 1975, No. 353, § 5; A.S.A. 1947, § 71-2905; Acts 2001, No. 617, § 18; 2009, No. 1367, § 18; 2019, No. 315, § 1424. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (c)(1).

## CHAPTER 37

### PEST CONTROL SERVICES

#### SUBCHAPTER.

##### 1. GENERAL PROVISIONS.

##### 2. LICENSING.



**SUBCHAPTER 1 — GENERAL PROVISIONS**

## SECTION.

17-37-102. Definitions.

17-37-103. Penalties.

17-37-104. Injunctions.

## SECTION.

17-37-105. Administration.

17-37-107. Fees.

**17-37-102. Definitions.**

As used in this chapter:

(1) "Agent" means any person registered with the State Plant Board by a licensed operator to solicit or sell pest control service which the operator is licensed to perform, including the signing of contracts, making inspections for the purpose of servicing or continuing contracts, and supervising workers and working crews in carrying out pest control service, when so designated by the licensed operator, or except as may be limited by the board in its rules made under authority of this chapter. This is not to be construed as relieving the licensed operator in any way of being responsible for personal and direct supervision of all work performed under his or her license;

(2) "Applicant" means any person making application for a license to engage in pest control service work;

(3) "Board" means the State Plant Board;

(4) "Commercial applicator" means a person who has demonstrated by written examination his or her knowledge of the nature and effect of pesticides and how to use, supervise the use, or demonstrate the use of restricted-use pesticides, as defined by the Federal Insecticide, Fungicide, and Rodenticide Act, safely and properly. Qualification as a commercial applicator shall be integral to qualification as a licensed operator or qualified operator and vice versa;

(5) "Director" means the Director of the State Plant Board;

(6) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which classifies, regulates, and provides for the certification of all users of restricted-use pesticides, as defined in that act, including all persons who engage in commercial and noncommercial pest control service work;

(7) "Fungi or rot control responsibility" means that the license holder or licensed operator shall be held responsible for fungi or rot control only on substructure timbers such as sills, subsills, piers, floor joists, subfloors, and floors;

(8) "Household pest and rodent" means any mammal, bird, arthropod, or reptile that may infest or invade a home or other buildings or the immediate area around or under a home or buildings, other than wood-damaging or wood-destroying insects, fungi, or organisms;

(9) "License holder" means the person, firm, or corporation to which a license is issued, the person being himself or herself a licensed operator or there being one (1) or more licensed operators in the employ of the person, firm, or corporation;

(10) "Licensed operator" means a person who has fully qualified and has passed the board's written examination and has in force a valid

license from the board to engage in the work indicated in the license. The person shall also have met the requirements of and be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act and state law as a commercial applicator;

(11) "Noncommercial applicator" means any person who uses, supervises the use of, or demonstrates the use of a restricted-use pesticide in any classification on his or her own or his or her employer's property who does not hold himself or herself out as being engaged for compensation in pest control service work;

(12) "Person" means an individual, firm, partnership, corporation, organization, association, or any combination thereof, whether or not incorporated;

(13) "Pest control service" means any person who for compensation gives advice or engages in work to prevent, control, or repel arthropods, mammals, birds, reptiles, or wood-damaging or wood-destroying organisms that may invade or infest homes, other buildings, or similar structures and shall include arthropods, mammals, birds, reptiles, weeds, and plant diseases that may invade, infest, or infect shade trees, shrubs, lawns, turf, and pecan groves. This term shall also include any person who issues letters of clearance, or who shall solicit such work in any manner, but the term shall not be construed to include agricultural crops from planting to harvest other than those mentioned in this subdivision (13);

(14) "Qualified operator" means a person who has fully qualified and has passed the board's written examination working under the bond and insurance of a license holder or licensed operator instead of his or her own. The person shall also have met the requirements of and be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act and state law as a commercial applicator;

(15) "Soil pretreatment" means chemical treatment of the soil before or during construction of any building for the purpose of preventing or controlling subterranean termites;

(16) "Solicitor" means any person registered with the board by a licensed operator to solicit or sell pest control service work, which the operator is licensed to perform, but the solicitor may not perform any pest control service work nor be placed in charge of workers or working crews;

(17) "Supervise" or "under the direct supervision of" means the act or process whereby the application of a pesticide is made by a competent and registered person acting under the instructions and control of a licensed operator or qualified operator who is responsible for the actions of that person and who is available if and when needed, even though the operator is not physically present at the time and place the pesticide is applied;

(18) "Termite and other structural pests" means any wood-damaging or wood-destroying insect, fungus, or organism;

(19) "Termite infestation" means any active termites found in or on a building, its foundation or attached appurtenances, or under the building, in or on debris, or in or on stumps under the building; and



(20) "Weed control" means the prevention, destruction, or removal of any plant from where it is not wanted by the use of herbicides.

**History.** Acts 1975, No. 488, § 2; 1985, No. 385, § 2; A.S.A. 1947, § 77-1802; Acts 2019, No. 315, § 1425.

**Amendments.** The 2019 amendment deleted "and regulations" following "rules" in the first sentence of (1).

### 17-37-103. Penalties.

(a) The violation of any of the provisions of this chapter or any of the rules of the State Plant Board promulgated under this chapter shall be deemed a misdemeanor.

(b) Upon conviction, an offender shall be punished by a fine of not less than fifty dollars (\$50.00) for the first offense, not less than one hundred dollars (\$100) for the second offense, and not less than two hundred dollars (\$200) plus ten (10) days in jail for each offense thereafter, with no suspension of fines or imprisonment.

**History.** Acts 1975, No. 488, § 11; A.S.A. 1947, § 77-1810; Acts 2019, No. 315, § 1426.

**Amendments.** The 2019 amendment deleted "and regulations" following "rules" in (a).

### 17-37-104. Injunctions.

(a) The State Plant Board is authorized to apply to any court of competent jurisdiction for, and the court, upon hearing and for cause shown, may grant, a temporary or permanent injunction restraining any person from violating any provisions of this chapter or of the rules made under the authority of this chapter.

(b) The injunction is to be without bond.

**History.** Acts 1975, No. 488, § 10; A.S.A. 1947, § 77-1809; Acts 2019, No. 315, § 1427.

**Amendments.** The 2019 amendment deleted "and regulations" following "rules" in (a).

### 17-37-105. Administration.

(a)(1) The State Plant Board is vested with the authority to carry out the provisions of this chapter, including the employment of necessary personnel.

(2)(A) The board shall have the authority to adopt rules which shall have the full force and effect of law for the purpose of carrying into effect the provisions of this chapter.

(B) The rules may include the authorization to require licensed operators to submit written monthly reports setting out the description and location of properties on which pest control service has been rendered and such other information relative thereto as the board shall deem necessary.

(C) The rules may include minimum standards for pest control service work and shall include fees sufficient to pay the cost of carrying out the provisions of this chapter.

(b) The board or its authorized representative may enter upon and inspect properties, plants, or products for the purpose of carrying out the provisions of this chapter and of carrying out the rules made pursuant to this chapter.

**History.** Acts 1975, No. 488, § 3; A.S.A. 1947, § 77-1803; Acts 2019, No. 315, § 1428.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (a)(2)(A) through (C), and in (b).

### 17-37-107. Fees.

(a) In its rules made pursuant to this chapter and after a public hearing, the State Plant Board shall establish license, registration, inspection, reinspection, reporting, and examination fees sufficient to carry out the provisions of this chapter.

(b) All fees collected under this chapter shall be deposited into the State Treasury to the credit of the board and are to be used in carrying out the provisions of this chapter.

**History.** Acts 1975, No. 488, § 4; A.S.A. 1947, § 77-1804; Acts 2019, No. 315, § 1429.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (a).

## SUBCHAPTER 2 — LICENSING

### SECTION.

17-37-206. License application.

17-37-208. Licensing standards.

17-37-213. Agents and solicitors generally.

17-37-219. Automatic invalidity of license.

### SECTION.

17-37-220. Hearing and appeal.

17-37-221. Contracts, reports, and records.

### 17-37-206. License application.

(a) Any person desiring to obtain a license for pest control service work shall make application to the State Plant Board on forms provided by the board, giving complete information requested.

(b) The applicant must prove to the satisfaction of the board that he or she is morally and financially responsible.

(c) An applicant must show proof of at least one (1) year of experience in the classification for which a license is desired or have completed at least two (2) years of work in an accredited college or university, including the completion of at least one (1) basic course in entomology, to be eligible to take the examination in either of the following classifications:

(1) Termite and other structural pests; or

(2) Household pests and rodent control.

(d)(1) To demonstrate the ability of the applicant to perform the classification of work for which a license is desired and to demonstrate his or her knowledge of the nature and effect of pesticides and how to apply them safely and properly, the board shall prescribe in advance an



examination in writing to be taken by the applicant and to be given by a person designated by the board who is not interested financially or otherwise in pest control service work in Arkansas.

(2) This representative shall examine the applicant by a written examination as prescribed, and the examination shall be graded by the examiner with the results being certified to the board for approval either as having passed or failed the examination as the case may be.

(e)(1) The board is directed to give examinations on various classifications of pest control work on designated dates at least one (1) time each quarter.

(2) If the applicant is found qualified in one (1) or more of the classifications, he or she may be licensed to do the classification of work for which he or she is found qualified upon the payment of the required fees.

(f) By virtue of these qualifications, the applicant shall be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act or state law as a commercial applicator.

(g) By rule, the board shall make provisions to ensure that applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(h) Any licensee who fails to renew his or her license for a period of two (2) years shall be required to follow the same procedure as a new applicant in obtaining another license.

**History.** Acts 1975, No. 488, § 4; A.S.A. 1947, § 77-1804; Acts 2019, No. 315, § 1430. **Amendments.** The 2019 amendment substituted "rule" for "regulation" in (g).

### 17-37-208. Licensing standards.

(a) In promulgating rules under this chapter, the State Plant Board shall prescribe standards for the licensing of applicators of pesticides.

(b) The standards shall relate to the use and handling of the pesticides or to the use and handling of the pesticide or class of pesticide covered by the individual's license and shall be relative to the hazards involved.

(c)(1) In determining standards, the board shall consider the characteristics of the pesticide formulation such as:

(A) The acute dermal and inhalation toxicity;

(B) The persistence, mobility, and susceptibility to biological concentration;

(C) The use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information;

(D) The relative hazards of patterns of use such as granular soil applications, ultra low volume or dust aerial applications, or air blast sprayer applications; and

(E) The extent of the intended use.

(2) Further, the board shall take into consideration standards of the United States Environmental Protection Agency and is authorized to adopt these standards by rule.

**History.** Acts 1975, No. 488, § 4; A.S.A. 1947, § 77-1804; Acts 2019, No. 315, §§ 1431, 1432.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a) and made a similar change in (c)(2).

### **17-37-213. Agents and solicitors generally.**

(a) Each licensed operator shall register with the State Plant Board the name and address of each agent or solicitor and shall pay to the board a registration fee annually for each solicitor and agent at the time of registration.

(b) All registrations shall expire when the license expires.

(c) In all cases in which a solicitor or agent violates the provisions of this chapter or the rules made under authority of this chapter, the violations shall be grounds for invalidation of the license held by the operator under which the solicitor or agent had been registered.

**History.** Acts 1975, No. 488, § 4; A.S.A. 1947, § 77-1804; Acts 2019, No. 315, § 1433.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (c).

### **17-37-219. Automatic invalidity of license.**

A license shall automatically become invalid should the licensed operator whose name appears on the license cease to personally supervise and be in direct charge of the pest control operation. The license shall remain invalid until some other person, having been examined in accordance with this chapter and the rules under this chapter, shall be certified as the licensed operator in his or her stead.

**History.** Acts 1975, No. 488, § 7; A.S.A. 1947, § 77-1807; Acts 2019, No. 315, § 1434.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in the second sentence.

### **17-37-220. Hearing and appeal.**

(a) When any person is refused a license or his or her license is not renewed, or when the State Plant Board contemplates invalidation of his or her license, he or she shall have the right of a hearing before the board or an authorized committee of the board by filing a written request for a hearing with the Department of Agriculture.

(b) Any person whose license is denied, refused, or invalidated by the board may appeal the decision to the Pulaski County Circuit Court within twenty (20) days after official notification of the decision.

**History.** Acts 1975, No. 488, § 7; A.S.A. 1947, § 77-1807; Acts 2021, No. 557, § 12.

**Amendments.** The 2021 amendment

substituted “Department of Agriculture” for “board by registered or certified mail” in (a).



**17-37-221. Contracts, reports, and records.**

(a) Every licensed operator shall enter into a written contract with the property owner when employed to control or eradicate termites or other structural pests, or in such other classifications as the State Plant Board may specify in its rules made under authority of this chapter. The contract for termite and other structural pests shall guarantee the performance of the work for at least one (1) year and that the property meets the minimum standards established by the board in its rules for the work, unless these standards are waived or altered upon approval of the board.

(b) A copy of the contract or "start-work agreement" and a complete outline of the work to be performed shall be given to the property owner before any work is started.

(c)(1)(A) By the fifteenth of each month, every licensed operator shall file a report with the board covering termite and other structural pest work performed the previous calendar month.

(B) The report required under subdivision (c)(1)(A) of this section shall include:

(i) A summary listing of each contract issued for the prevention, control, or eradication of termites or other structural pests;

(ii) Letters of clearance issued and service contracts issued regardless of whether chemical treatments were carried out;

(iii) The name and address of the property owner;

(iv) The address of the property; and

(v) Any other information deemed necessary by the board and stipulated in the rules adopted under this chapter.

(C) Within forty-eight (48) normal business hours, the licensed operator shall produce documents requested by an authorized agent of the board, including without limitation contracts and related documents.

(D) Failure to meet timelines set in this section may result in additional penalties.

(2)(A) Reporting and payment of inspection fees may also be required for household pest and rodent control work or other classifications as the board may specify if deemed necessary or if required by the Federal Insecticide, Fungicide, and Rodenticide Act.

(B)(i) All fees due the board shall be filed with the board by the fifteenth day of each month to cover work performed the previous calendar month.

(ii) If payment of fees due is delayed more than thirty (30) days, then the fees due shall be doubled.

(3) A report shall be filed each month even if no work is performed.

(d)(1) Each licensed operator, qualified operator, or license holder in any classification shall keep a complete record of all work performed, including copies of all contracts issued.

(2) The records shall be available for examination by the board or its representatives after reasonable notice and during normal business hours.

(3) The records shall be kept for at least two (2) years and shall contain information on kinds, amounts, uses, dates, and addresses of applications of restricted-use pesticides.

(e)(1) All licensed operators, qualified operators, or license holders shall stencil or paint on both sides of all motor equipment that requires a state vehicle license the name of the operator or company with letters at least two inches (2") high.

(2) Vehicles used only for sales or soliciting are excepted.

**History.** Acts 1975, No. 488, § 6; A.S.A. 1947, § 77-1806; Acts 2019, No. 315, §§ 1435, 1436; 2021, No. 934, § 1.

**Amendments.** The 2019 amendment deleted "and regulations" following "rules" in the first and second sentences of (a) and in (c)(1).

The 2021 amendment rewrote (c)(1); deleted (c)(3) and redesignated former (c)(4) as (c)(3); and substituted "if" for "though" in (c)(3).

## CHAPTER 38

### PLUMBERS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. REGULATION BY STATE BOARD OF HEALTH.
3. LICENSING.
4. APPRENTICE PLUMBER PROGRAM.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

##### SECTION.

- 17-38-101. Definitions.  
17-38-102. Prohibitions and penalties.  
17-38-104. Inspections by state in cities  
having enforcement officers.

##### SECTION.

- 17-38-105. Exceptions.

#### 17-38-101. Definitions.

As used in this chapter:

(1) "Apprentice plumber" means any person other than a journeyman or master plumber who is engaged in learning and assisting in the installation of plumbing and drainage and enrolled in a state-approved apprentice program;

(2) "Approved backflow preventor" means any permanent mechanical device or combination of permanent mechanical devices of whatever material that after installation according to the state plumbing regulations acts to prevent a reversal of the normal directional flow of potable water within the piping system in which it is installed;

(3) "Board" means the State Board of Health;

(4) "Department" means the Department of Health;

(5) "Final year of apprenticeship" means when an apprentice plumber has obtained four hundred eighty (480) hours or more of



classroom instruction and completed six thousand (6,000) or more hours of on-the-job work in an approved United States Department of Labor apprenticeship program;

(6) "Gas utility serviceperson" means an employee of a gas utility specially trained for gas service work with the utility;

(7) "Journeyman plumber" means any person other than a master plumber who is engaged in the practical installation of plumbing;

(8) "Master plumber" means any person skilled in the planning, superintending, and practical installation of plumbing and familiar with the laws and rules governing it;

(9) "Plumbing" means:

(A) All piping, fixtures, appurtenances, and appliances:

(i) In connection with a supply of water within or adjacent to any building, structure, or conveyance on the premises and to the connection with a utility water meter or other public water utility property or other source of supply;

(ii) For sanitary drainage or storm drainage facilities, including venting systems for facilities, within or adjacent to any building, structure, or conveyance and connected with a public disposal or private disposal system or other point of disposal; or

(iii) Used in the installation of natural gas; and

(B) The installation, repair, maintenance, and renovation of all piping, fixtures, appurtenances, and appliances for a supply of water or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance on the premises and to the utility water meter or other public utility property or point-of-disposal waste; and

(10) "Restricted plumber" means a person qualified to install building water or sewer lines or other special phases of plumbing if the person has demonstrated competency for that particular phase of plumbing.

**History.** Acts 1951, No. 200, § 1; 1973, No. 385, § 1; 1975, No. 902, § 1; A.S.A. 1947, § 71-1205; Acts 1987, No. 816, § 1; 2003, No. 1217, § 1; 2017, No. 971, § 1; 2019, No. 315, § 1437.

**Amendments.** The 2019 amendment substituted "laws and rules" for "laws, rules, and regulations" in (8).

## 17-38-102. Prohibitions and penalties.

(a) Any person, firm, or corporation that engages in or follows the business or occupation of, or advertises or holds himself or herself or itself out as, or acts temporarily or otherwise as a plumber without first having secured the required license or permit, or that otherwise violates any provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than thirty (30) days, or by both fine and imprisonment. Each day during which a violation continues shall be a separate offense.

(b) Any person who shall do any act prohibited in this chapter or fail to obey a lawful order of the Department of Health or a judgment or decree of a court in connection with this chapter shall be punished by imprisonment in the county jail for not more than three (3) months or by a fine not exceeding five hundred dollars (\$500). Each day during which the violation continues shall constitute a separate offense.

(c) Any person, firm, or corporation that shall employ an apprentice of plumbing representing him or her to be a journeyman or that shall charge for an apprentice a journeyman's wage shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment in the county jail for not more than thirty (30) days. Each day of violation shall be a separate offense.

(d)(1) Every firm, person, or corporation that violates any of the provisions of this chapter or the rules or orders issued or promulgated by the State Board of Health or that violates any condition of a license, permit, certificate, or any other type of registration issued by the committee may be assessed a civil penalty by the committee.

(2) The penalty shall not exceed one thousand dollars (\$1,000) for each violation.

(3) Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

(e) All fines collected under this section shall be deposited into the State Treasury and credited to the Plumbers Licensing Fund to be used to defray the costs of administering this chapter.

(f) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department is authorized to transfer all unexpended funds relative to fines collected under this section, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

(g) All rules promulgated pursuant to this section shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

**History.** Acts 1951, No. 200, § 11; 1975, No. 902, § 9; A.S.A. 1947, § 71-1215; Acts 1987, No. 816, § 10; 1995, No. 788, § 1; 1997, No. 179, § 11; 2019, No. 315, §§ 1438, 1439.

**Amendments.** The 2019 amendment deleted "or regulations" following "rules" in (d)(1) and made similar changes in (f) and (g).

### **17-38-104. Inspections by state in cities having enforcement officers.**

(a)(1) The Department of Health inspectors may go into any city that has a city code enforcement officer and assist the city code enforcement officer for the purpose of ensuring that the minimum standards of the state plumbing code and plumber licensing rules are being met.

(2) A written report of all inspections performed by the department inspector under this section shall be prepared by the department



inspector, and a copy of the report shall be furnished within five (5) days to the city code enforcement officer and the owner of the property on which the inspection by the department inspector and city inspector is conducted.

(b) The Freedom of Information Act of 1967, § 25-19-101 et seq., shall apply to all documents compiled during an inspection conducted by the department.

**History.** Acts 1987, No. 816, § 11; 2003, No. 1217, § 3; 2019, No. 315, § 1440.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a)(1).

### 17-38-105. Exceptions.

This chapter shall not apply to:

(1) The installation, maintenance, repair, or renovation of fire protection sprinkler systems and related mechanical appurtenances beginning at a point where the pipe or piping system provides water used exclusively for these automatic sprinklers and their related appurtenances and to standpipes connected to automatic sprinkler systems;

(2) The construction, installation, maintenance, repair, renovation, or removal of pipe or piping systems and related mechanical appurtenances, appliances, or equipment used in connection with boilers or related pressure piping as defined in § 20-23-101, commercial or residential swimming pools, or irrigation sprinkler systems from a point or location in a source of potable water supply at which point or location there exists any approved backflow preventor;

(3) Piping, fixtures, appurtenances, and appliances for and in connection with liquefied petroleum gas systems as defined in § 15-75-102; or

(4)(A) The minimum number or location of plumbing fixtures or toilet facilities for use by the public within buildings, offices, or facilities maintained by banks, savings and loan associations, or credit unions for the conduct of their business.

(B) This exemption applies to any existing or future plumbing codes or rules promulgated by the State Board of Health, or its successor agency.

(C) No municipality or county shall pass or enforce any code or regulation regarding the minimum number or location of plumbing fixtures or toilet facilities for use by the public within buildings, offices, or facilities maintained by banks, savings and loan associations, or credit unions.

**History.** Acts 2003, No. 1217, § 4; 2005, No. 1016, § 1; 2019, No. 315, § 1441.

substituted “plumbing codes or rules” for “plumbing codes, rules, or regulations” in (4)(B).

**Amendments.** The 2019 amendment

**SUBCHAPTER 2 — REGULATION BY STATE BOARD OF HEALTH**

## SECTION.

17-38-201. Powers and duties generally  
— Definition.

17-38-202. Committee of Plumbing Ex-  
aminers.

## SECTION.

17-38-203. Regulation of training.

17-38-204. Local regulatory authority —  
Exceptions.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

**17-38-201. Powers and duties generally — Definition.**

(a) The State Board of Health shall have the following powers:

(1) To ensure that the construction, installation, and maintenance of plumbing in connection with all buildings in this state, including buildings owned by the state or any political subdivision thereof, shall be safe and sanitary in order to safeguard the public health;

(2)(A) To have general supervision of all plumbing and, according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall prescribe and publish and enforce minimum reasonable standards that shall be uniform as far as practicable.

(B) The Secretary of the Department of Health or any employee of the Department of Health designated by the State Board of Health may act for the State Board of Health except in adoption of rules;

(3) To prescribe rules as to the qualifications, examination, and licensing of master plumbers and journeyman plumbers and for the registration of apprentice plumbers;

(4) To assign the duties of the Committee of Plumbing Examiners;

(5)(A) To prescribe rules as to the use of corrugated stainless steel piping.

(B) Such rules shall be no more stringent than the American National Standards for Interior Fuel Gas Piping Systems; and

(6)(A) To require that a survey and inspection for leaks, proper venting, and general condition of the natural gas piping system and gas utilization equipment connected thereto, including appliances, serving any school accredited by the State Board of Education shall be performed as frequently as necessary, but at intervals not exceeding one (1) year. School officials shall be responsible to ensure that



these surveys and inspections are performed by a qualified agency and that proof of the survey results are provided to the Division of Protective Health Codes of the Department of Health by September 1 each year.

(B) As used in subdivision (a)(6)(A) of this section, "qualified agency" means any individual, firm, corporation, or company which either in person or through a representative is engaged in and is responsible for the installation, replacement, or repair of consumer gas piping, or the connection, installation, repair, or servicing of gas utilization equipment, and is experienced in such work and familiar with all precautions required and has complied with all requirements of the State Board of Health and the department and the codes and rules.

(b) The State Board of Health shall prescribe rules governing plumbing apprentice training committees and, in cooperation with educational authorities, assist in related training programs for plumbers.

(c) The department may exercise such powers as are reasonably necessary to carry out the provisions of this chapter. Among other things, it may:

(1) Employ competent supervisors who shall be licensed plumbers or licensed engineers, employ other assistants, and prescribe qualifications and assign duties for the supervisors and assistants;

(2) Conduct investigations and experiments for the advancement of technical knowledge relating to plumbing and hold public meetings and attend or be represented at the meetings within or without the state;

(3) Enter and inspect at reasonable hours plumbing installations on private or public property and disseminate information relative to the provisions of this chapter;

(4) Prepare and cause to be printed such codes, bulletins, or other documents as may be necessary and furnish copies thereof to those engaged in the plumbing business and to the public upon request;

(5) Charge a reasonable fee for plumbing inspections;

(6) Furnish upon request of the owner of the building or of the plumber making the plumbing installation, recommendations or a certificate of inspection;

(7) Issue restricted licenses limited to gas fitter, residential and governmental maintenance, service line installation, solar mechanic, and hospital maintenance licenses if the licensee has demonstrated competency for the particular phase of plumbing for which the person is licensed and if the State Board of Health has adopted rules defining restrictions in the type of work allowed, geographical area served, and term of the type of restricted license; and

(8) Prepare a list giving the names and addresses of all licensed plumbers and registered apprentice plumbers.

(d)(1) The State Board of Health shall prescribe rules as to the qualifications, examination, and licensing of master plumbers and journeyman plumbers and for the registration of plumbing apprentices.

(2) The State Board of Health shall publish a list giving the names and addresses of all licensed plumbers, registered plumbers, and city plumbing inspectors.

(e) The State Board of Health may issue special licenses and restricted licenses, including, but not limited to, gas licenses and other licenses which may cover a special phase of plumbing, provided that the licensee has demonstrated competency for the particular phase of plumbing for which the person is licensed.

(f) The department shall issue a restricted gas utility license to all gas utilities having gas servicepersons. The license shall cover all of the servicepersons of the utility if the utility requires each serviceperson to be specially trained for this service. The utility shall be responsible to the department for each serviceperson and shall provide an identification card showing the utility name, utility license number, and the restricted service of the serviceperson. The utility shall register each serviceperson and his or her serial number with the department.

(g) The State Board of Health shall allow the use of a harvested rainwater system used for a nonpotable purpose if the harvested rainwater system:

- (1) Is designed by a professional engineer licensed in Arkansas;
- (2) Is designed with appropriate cross-connection safeguards; and
- (3) Complies with the state plumbing code.

(h) The department and the State Board of Health shall:

(1) Accept plumbing plan review documents via email, via mail, or in person; and

(2) Respond to an individual or entity submitting plumbing plan review documents via email, unless the individual or entity indicates that the individual or entity would prefer to receive the response via mail.

**History.** Acts 1951, No. 200, § 2; 1975, No. 902, § 2; A.S.A. 1947, § 71-1206; Acts 1987, No. 816, § 2; 1993, No. 638, § 1; 1995, No. 982, § 1; 2003, No. 1217, §§ 5, 6; 2009, No. 361, § 1; 2019, No. 315, §§ 1442-1448; 2019, No. 889, § 1; 2019, No. 910, § 471.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rules” at the end of (a)(2)(B), (a)(3), (a)(5)(A), (a)(5)(B), (b), and (d)(1);

substituted “rules” for “regulations” in (a)(6)(B) and (c)(7); and deleted “by regulation” following “Board of Health shall” in (b).

The 2019 amendment by No. 889 added (h).

The 2019 amendment by No. 910 substituted “Secretary of the Department of Health” for “Director of the Department of Health” and the first occurrence of “State Board of Health” for “board” in (a)(2)(B).

## 17-38-202. Committee of Plumbing Examiners.

(a)(1) The State Board of Health shall appoint a Committee of Plumbing Examiners consisting of seven (7) voting members, prescribe their qualifications, and assign their duties.

(2) Qualifications of the members of the committee shall be as follows:

- (A) Two (2) of the members shall be master plumbers;
- (B) One (1) shall be a journeyman plumber;



- (C) One (1) shall be a professional engineer as defined in § 17-30-101 with special expertise in plumbing design;
- (D) Two (2) shall be consumers; and
- (E) One (1) shall be a representative of the Department of Health.
- (b) The member from the department shall serve on the committee until replaced by the Secretary of the Department of Health.
- (c) The term of office for the remaining members shall be for a staggered term of four (4) years. The board may remove a member for cause.
- (d) When so directed, the committee and other employees of the department shall serve the board in an advisory capacity in the formulating of rules to be adopted by the board.
- (e) Those members of the committee who are not employees of the State of Arkansas may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.
- (f) The Director of the Plumbing and Natural Gas Section of the Department of Health shall serve as executive secretary for the committee.

**History.** Acts 1951, No. 200, § 3; 1975, No. 902, § 3; A.S.A. 1947, § 71-1207; Acts 1987, No. 816, § 3; 1991, No. 330, § 1; 1997, No. 250, § 144; 2011, No. 897, § 14; 2019, No. 315, § 1449; 2019, No. 910, § 472.

by No. 315 deleted “and regulations” following “rules” in (d).  
The 2019 amendment by No. 910 substituted “Secretary of the Department of Health” for “Director of the Department of Health” in (b).

**Amendments.** The 2019 amendment

**17-38-203. Regulation of training.**

- (a) The State Board of Health shall prescribe rules governing plumbing apprentice training committees and, in cooperation with educational authorities, assist in related training programs for plumbers.
- (b) Any university, college, or school offering a full-time recognized course in plumbing or any recognized national educational program is exempt from the requirements of subsection (a) of this section, provided that the educational program meets or exceeds the national plumbing apprenticeship requirements.

**History.** Acts 1951, No. 200, § 3; 1975, No. 902, § 3; A.S.A. 1947, § 71-1207; Acts 2019, No. 315, § 1450.

in (a), deleted “by regulation” following “Board of Health shall” and deleted “and regulations” following “rules”.

**Amendments.** The 2019 amendment,

**17-38-204. Local regulatory authority — Exceptions.**

- (a) A city, town, or county having a system of either water, sewerage, or gas utility, or a combination of utilities, by ordinance, rules, regulations, or customer contract shall prescribe rules and regulations governing plumbing not in conflict and equal to or exceeding the minimum standards prescribed by the Department of Health.
- (b) A plumbing installation shall not be:

(1) Installed in any building within this state except in accordance with or exceeding the minimum requirements of the department; or

(2) Started without the prescribed licenses, permits, and acceptable plan review of plumbing plans and specifications when required.

(c) A city, town, sewerage district, water district, sewer association, water association, utility gas system, or county having a system of either water, sewerage, or gas utility, or a combination of utilities, shall establish a system of permits and inspections to assure that the public health and safety is protected.

(d) Reasonable fees for inspections may be charged.

(e) This chapter does not prohibit a city, town, or county from having full authority to provide full supervision of the inspection of plumbing and plumbers by enactment of ordinances or regulations by the legal local government body.

(f)(1) However, when a system of either water, sewerage, or gas has been or will be established and has not provided for a local board or inspector to supervise plumbing or gas, the department may take immediate charge and entire control of the plumbing inspection program.

(2) The State Board of Health shall prescribe full rules including permits, permit fees, and inspections.

(g) When the plumbing control program of a county, city, town, water district, water association, sewerage district, sewer association, or water, sewer, or gas utility fails to provide a program at least equal to the minimum requirements of the department, the department shall take measures to meet the minimum state requirements to protect the public health and safety of the county, city, town, water district, water association, sewerage district, or water, sewer, or gas utility.

(h)(1) If a city, town, sewerage district, water district, sewer association, water association, utility gas system, or county enacts an ordinance or regulation to provide for plan reviews of plumbing plans, the city, town, sewerage district, water district, sewer association, water association, utility gas system, or county may have an employee who is certified as a plumbing and natural gas inspector perform plan reviews of plumbing plans.

(2)(A)(i) All plumbing plans approved under subdivision (h)(1) of this section shall not be required to be:

(a) Submitted with a payment of a fee to the department if a fee is submitted to the city, town, sewerage district, water district, sewer association, water association, utility gas system, or county; or

(b) Reviewed by the department if an engineer licensed in this state has prepared the plumbing plan and the employee described under subdivision (h)(1) of this section is a licensed engineer in this state.

(ii) However, a city, town, sewerage district, water district, sewer association, water association, utility gas system, or county may submit a plumbing plan to the department for an advisory opinion.

(B) The department shall not require the city, town, sewerage district, water district, sewer association, water association, utility



gas system, or county to relinquish or surrender a fee submitted to the city, town, sewerage district, water district, sewer association, water association, utility gas system, or county.

(C) The maximum allowable fee for a plan review under subdivision (h)(1) of this section shall not exceed the fees set out in § 20-7-123(b)(2).

(3)(A) An employee who performs a plan review under subdivision (h)(1) of this section has the responsibility to ensure that the plumbing plan meets state requirements.

(B) The department may audit or inspect the records of an employee who performs a plan review under subdivision (h)(1) of this section.

(4) This section does not:

(A) Create a cause of action against a city, town, sewerage district, water district, sewer association, water association, utility gas system, or county for any resulting damages or failures of the plumbing plan; or

(B) Prohibit a person from seeking a plan review from and paying a fee to the department in lieu of seeking a plan review from and paying a fee to a city, town, sewerage district, water district, sewer association, water association, utility gas system, or county.

(5) A plumbing plan review under this section includes a review of the plumbing as defined in § 17-38-101 and the water supply, water lines, and sewage line designs.

**History.** Acts 1951, No. 200, §§ 4, 5; 1975, No. 902, §§ 4, 5; A.S.A. 1947, §§ 71-1208, 71-1209; Acts 1987, No. 816, §§ 4, 5; 2017, No. 157, § 1; 2019, No. 889, § 2.

**Amendments.** The 2019 amendment substituted “city, town, sewerage district, water district, sewer association, water

association, utility gas system, or county” for “entity” in (h)(1); redesignated part of (h)(2)(A) as (h)(2)(A)(i) and (h)(2)(A)(i)(a) and added (h)(2)(A)(i)(b) and (h)(2)(A)(ii); substituted “has” for “is assumed to have” in (h)(3)(A); added (h)(5); and made stylistic changes.

### SUBCHAPTER 3 — LICENSING

SECTION.

17-38-301. License required.

17-38-304. Master plumber or journeyman plumber — Application.

17-38-305. Fees.

SECTION.

17-38-308. Expiration and renewal.

17-38-309. Grounds for suspension or revocation.

17-38-311. Restricted lifetime master plumber license.

#### 17-38-301. License required.

(a)(1) No person shall engage in work as a master plumber, journeyman plumber, apprentice plumber, or restricted license holder called for under this chapter or adopted rules unless first licensed or registered to do so by the Department of Health.

(2) No person other than a licensed master plumber shall use or display the title “master plumber” or append his or her name to or in

connection with such a title or any other title or words that represent or may tend to represent him or her as a licensed master plumber.

(b)(1) In any city or town or in any sewerage district, water district, water association, sewer association, or utility gas system, no person, firm, or corporation shall install plumbing unless a licensed master or restricted licensed plumber who shall be responsible for proper installation is in charge at all times.

(2)(A) No license shall be transferable.

(B) It shall be unlawful for any licensed plumber to allow the use of his or her license, directly or indirectly, for the purpose of obtaining local permits for others.

(C) He or she shall not allow the use of his or her license by others to install plumbing work.

(c)(1) No person shall act as a plumbing inspector in this state without first obtaining a certificate of competency as a plumbing inspector, which shall be issued by the department.

(2) The department may issue special certification for special phases of plumbing and may issue an inspector-in-training certificate to duly appointed plumbing inspectors.

**History.** Acts 1951, No. 200, §§ 6, 10; 1975, No. 902, § 6; A.S.A. 1947, §§ 71-1210, 71-1214; Acts 1987, No. 816, § 6; 2003, No. 1217, § 7; 2019, No. 315, § 1451.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a)(1).

### **17-38-304. Master plumber or journeyman plumber — Application.**

(a) Application for a master plumber or journeyman plumber examination, temporary permit, or license shall be made to the Department of Health with fees.

(b) No license or permit shall be transferable.

(c) Unless the applicant is entitled to a renewal of license, a license shall be issued only after the applicant passes a satisfactory examination showing fitness.

(d)(1) An applicant for the master plumber examination shall have a minimum of five (5) years of plumbing experience.

(2) An applicant for the journeyman plumber examination shall have a minimum of four (4) years of plumbing experience.

(e) The Committee of Plumbing Examiners shall approve an applicant for master plumber or journeyman plumber examination provided that the applicant is currently licensed as a master plumber or journeyman plumber in another state or political subdivision of that state whose plumbing laws and codes are similar to those of this state.

(f) The committee may approve an applicant for examination who is not currently licensed in another state or its political subdivision or who has no plumber licensing background, provided the applicant shows proof of experience as a plumber in accordance with subsection (d) of this section. The proof of experience may be in the form of records,



affidavits, or bona fide evidence from licensing agencies, former employers, or persons who can attest to the applicant's work background as a plumber.

(g) The committee may consider applicants for the master plumber examination who are registered professional engineers with special expertise in plumbing engineering.

(h) An individual applying for and obtaining a license as a journeyman plumber shall be eligible for the master plumber examination after being licensed as a journeyman plumber for one (1) year. In cases of extreme hardship, the committee may waive the one-year requirement in whole or in part.

(i) The committee shall consider an apprentice plumber for the journeyman plumber examination, provided the apprentice plumber has successfully completed the training as defined under the plumber apprenticeship rules.

**History.** Acts 1951, No. 200, § 7; 1975, No. 902, § 7; A.S.A. 1947, § 71-1211; Acts 1987, No. 816, § 7; 1991, No. 330, § 3; 2001, No. 1293, § 1; 2019, No. 315, § 1452.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in (i).

### 17-38-305. Fees.

By rule and after public hearings, the State Board of Health may set reasonable license or examination fees for all licenses called for under this chapter, including, but not limited to, master plumber licenses, journeyman plumber licenses, apprentice plumber registration, gas utility licenses, and restricted plumber licenses.

**History.** Acts 1951, No. 200, § 8; 1963, No. 555, § 1; 1975, No. 902, § 8; A.S.A. 1947, § 71-1212; Acts 1987, No. 816, § 8; 2019, No. 315, § 1453.

**Amendments.** The 2019 amendment substituted "rule" for "regulation".

### 17-38-308. Expiration and renewal.

(a) All licenses shall be renewed annually within thirty (30) days after the expiration date of the license. The Department of Health may renew a license after the thirty-day period if there is sufficient reason for not renewing the license in the time specified and after payment of penalties as prescribed by rule.

(b) The department may set a system of staggered expiration dates for all licenses issued by the department.

(c) The department may issue permits for less than one (1) year. The cost of such permits shall be determined based upon the number of months the permit is valid divided by twelve (12) months multiplied by the amount of the annual permit fee.

**History.** Acts 1951, No. 200, § 8; 1963, No. 555, § 1; 1975, No. 902, § 8; A.S.A.

1947, § 71-1212; Acts 1987, No. 816, § 8; 1991, No. 330, § 4; 2019, No. 315, § 1454.

**Amendments.** The 2019 amendment substituted “rule” for “regulation” in the second sentence of (a).

**17-38-309. Grounds for suspension or revocation.**

The Committee of Plumbing Examiners, on its own motion, may make investigations and conduct hearings and, on its own motion or upon complaint in writing signed and verified by the complainant and upon not less than ten (10) days’ notice to the licensee, may suspend any plumber’s license or temporary permit if the committee has reason to believe, and may revoke the license or permit in the manner provided in § 17-38-310 if it finds, that the holder of the license or permit has:

- (1) Made a material misstatement in the application for license or renewal thereof or for temporary permit;
- (2) Demonstrated incompetency to act as a license holder; or
- (3) Has willfully violated any provisions of this chapter or any rule or order prescribed by the State Board of Health.

**History.** Acts 1951, No. 200, § 9; A.S.A. 1947, § 71-1213; Acts 1987, No. 816, § 9; 2019, No. 315, § 1455.

**Amendments.** The 2019 amendment deleted “regulation” following “rule” in (3).

**17-38-311. Restricted lifetime master plumber license.**

(a) Upon reaching sixty-five (65) years of age or any time thereafter, any person who has been a licensed master plumber licensed by the Department of Health for not less than twelve (12) years may apply for a restricted lifetime master plumber license. This license shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the department.

(b) The department shall promulgate rules necessary to carry out the provisions of this section.

**History.** Acts 1991, No. 330, § 5; 2019, No. 315, § 1456.

deleted “and regulations” following “rules” in (b).

**Amendments.** The 2019 amendment

**SUBCHAPTER 4 — APPRENTICE PLUMBER PROGRAM**

**SECTION.**

- 17-38-401. Definitions.
- 17-38-402. Powers of Career Education and Workforce Development Board.

**SECTION.**

- 17-38-403. State Plumbing Apprenticeship Committee.
- 17-38-404, 17-38-405. [Repealed.]
- 17-38-407, 17-38-408. [Repealed.]

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of

certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two



uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 17-38-401. Definitions.

As used in this subchapter:

(1) “Apprentice plumber” means any person other than a journeyman plumber or master plumber who is engaged in learning and assisting in the installation of plumbing and drainage and enrolled in a state-approved apprentice program;

(2) “Board” means the Career Education and Workforce Development Board; and

(3) [Repealed.]

**History.** Acts 1987, No. 768, § 1; 1991, No. 412, § 1; 2019, No. 910, § 473.

**Amendments.** The 2019 amendment repealed (3).

### 17-38-402. Powers of Career Education and Workforce Development Board.

The Career Education and Workforce Development Board shall have the following powers:

(1) To ensure that all persons working as apprentice plumbers are properly registered;

(2) To adopt rules as to the qualifications, training, and supervision of apprentice plumbers subject to the approval of the Department of Health; and

(3) To adopt rules establishing the roles and duties of the following organizations or officials in the plumbing apprenticeship program in compliance with the Revised National Guidelines for Apprenticeship Standards for plumber training as approved and registered with the United States Office of Apprenticeship:

(A) The Office of Skills Development; and

(B) The State Plumbing Apprenticeship Committee.

(4) [Repealed.]

**History.** Acts 1987, No. 768, § 2; 1991, No. 412, § 2; 2019, No. 315, § 1457; 2019, No. 910, §§ 474, 475; 2021, No. 647, § 15.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (2) and in the introductory language of (3).

The 2019 amendment by No. 910 substituted “Office of Skills Development” for

“Department of Career Education” in (3)(A); and repealed (4).

The 2021 amendment, in (3), substituted “Office of Apprenticeship” for “Bureau of Apprenticeship and Training”; inserted “Plumbing” in (3)(B); and deleted former (3)(C).

**17-38-403. State Plumbing Apprenticeship Committee.**

(a) The Career Education and Workforce Development Board shall appoint a State Plumbing Apprenticeship Committee, consisting of seven (7) voting members as follows:

- (1) Two (2) shall be Arkansas state-licensed journeyman plumbers;
- (2) One (1) shall be a citizen member; and
- (3) Four (4) shall be Arkansas state-licensed master plumbers.

(b) One (1) of the voting members shall be appointed from each congressional district, and three (3) of the voting members shall be appointed from the state at large.

(c) The Director of the Office of Skills Development or his or her designee shall serve as a nonvoting advisory member to the State Plumbing Apprenticeship Committee.

(d) Voting members shall serve four-year terms.

(e) The members of the State Plumbing Apprenticeship Committee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) The board shall prescribe State Plumbing Apprenticeship Committee members' qualifications and prescribe their duties.

(g) The board may remove a member for cause.

**History.** Acts 1987, No. 768, § 3; 1991, No. 412, § 3; 1997, No. 250, § 145; 2003, No. 1217, § 10; 2019, No. 910, § 476; 2021, No. 647, § 16.

**Amendments.** The 2019 amendment substituted "Director of the Office of Skills Development" for "Director of the Department of Career Education" in (c).

The 2021 amendment substituted "State Plumbing Apprenticeship Committee" for "State Apprenticeship Committee" in the section heading and throughout the section; redesignated former (b)(1) as (b); and deleted former (b)(2).

**17-38-404, 17-38-405. [Repealed.]**

**Publisher's Notes.** These sections, concerning hardship status criteria, applications, and appeals, were repealed by Acts 2021, No. 647, § 17, effective July 28, 2021. The sections were derived from the following sources:

17-38-404. Acts 1987, No. 768, § 3; 1991, No. 412, § 4.

17-38-405. Acts 1987, No. 768, § 3; 1991, No. 412, § 5.

**17-38-407, 17-38-408. [Repealed.]**

**Publisher's Notes.** These sections, concerning fees for correspondence courses and the disposition of those fees, were repealed by Acts 2019, No. 910, §§ 477 and 478, effective July 1, 2019.

The sections were derived from the following sources:

17-38-407. Acts 1987, No. 768, § 4.

17-38-408. Acts 1987, No. 768, § 5; 1991, No. 412, § 7.



CHAPTER 39

POLYGRAPH EXAMINERS AND VOICE STRESS ANALYSIS EXAMINERS

- SUBCHAPTER.
1. GENERAL PROVISIONS.
  2. LICENSING.
  3. VOICE STRESS ANALYSIS EXAMINERS.

SUBCHAPTER 1 — GENERAL PROVISIONS

- |   |  |
|---|--|
| SECTION.  | SECTION.   |
| 17-39-102. Definitions.   | 17-39-107. Disposition of funds.                                     |
| 17-39-103. Penalties.   | 17-39-110. Director of Division of Arkansas State Police — Designee. |
| 17-39-104. Injunction.  |  |
| 17-39-106. Director of the Division of Arkansas State Police — Powers and duties. |  |

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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17-39-102. Definitions.

- As used in this subchapter and subchapter 2:
- (1) “Intern” means a person who holds a valid intern polygraph examiner license issued by the Director of the Division of Arkansas State Police;
  - (2) “Internship” means the study of polygraph examinations and of the administration of polygraph examinations by an intern under the personal supervision and control of a licensed polygraph examiner as authorized by the law or any rule issued by the director;
  - (3) “Person” means a natural person, firm, association, copartnership, or corporation; and
  - (4) “Polygraph examiner” means a person who uses any device or instrument to test or question individuals for the purpose of verifying the truth of statements.

**History.** Acts 1967, No. 413, § 2; 1977, No. 910, § 1; A.S.A. 1947, § 71-2202; Acts 2013, No. 1216, § 2; 2015, No. 393, § 3; 2019, No. 910, § 5929.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (1).

### **17-39-103. Penalties.**

(a) A person who violates this subchapter or subchapter 2 or who falsely states or represents that he or she is a properly licensed polygraph examiner or intern, upon conviction is guilty of a Class A misdemeanor.

(b) It is unlawful for a person to conduct a polygraph examination in the State of Arkansas unless that person holds a valid license as a polygraph examiner or intern that is issued by the Director of the Division of Arkansas State Police.

(c) For each violation of this subchapter or subchapter 2, the director may deny, suspend, or revoke a license and:

(1) Fine the licensee an amount not to exceed one thousand dollars (\$1,000);

(2) Reprimand the licensee; or

(3) Both issue a fine and reprimand the licensee.

**History.** Acts 1967, No. 413, § 25; A.S.A. 1947, § 71-2224; Acts 2013, No. 1216, § 3; 2015, No. 393, § 4; 2019, No. 910, § 5930.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (b).

### **17-39-104. Injunction.**

(a) If a person violates this subchapter or subchapter 2, the Director of the Division of Arkansas State Police, through the Attorney General, may apply in any circuit court of competent jurisdiction for an order enjoining the violation or for an order enforcing compliance with this subchapter or subchapter 2.

(b)(1) Upon the filing of a verified petition in the court, the court, if satisfied by affidavit or otherwise that the person has violated this subchapter or subchapter 2, may issue a temporary injunction, without notice or bond, enjoining the continued violation.

(2) If it is established that the person has violated this subchapter or subchapter 2, the court may enter a decree perpetually enjoining the violation or enforcing compliance with this subchapter and subchapter 2.

(c) In case of violation of any order or decree issued under the provisions of this section, the court may try and punish the offender for contempt of court.

(d) Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this subchapter and subchapter 2.



**History.** Acts 1967, No. 413, § 24; A.S.A. 1947, § 71-2223; Acts 2013, No. 1216, § 4; 2015, No. 393, § 5; 2019, No. 910, § 5931.

substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in (a).

**Amendments.** The 2019 amendment

### **17-39-106. Director of the Division of Arkansas State Police — Powers and duties.**

(a) The Director of the Division of Arkansas State Police may perform the functions and duties enumerated in this subchapter and subchapter 2 with respect to the licensing of polygraph examiners and interns and perform all other acts incidental and necessary to the proper performance of the functions and duties as prescribed in this subchapter and subchapter 2.

(b) The director shall issue rules consistent with this subchapter and subchapter 2 for the administration and enforcement of this subchapter and subchapter 2 and shall prescribe and issue forms in connection with these rules.

(c) The director shall perform duties prescribed by this subchapter and subchapter 2 and shall have no financial, personal, or business interests, contingent or otherwise, in an entity within his or her licensing authority.

(d) The director or his or her designee is the agent for service of process for all legal process and documents required by law to be served in conjunction with this subchapter and subchapter 2.

**History.** Acts 1967, No. 413, §§ 4, 5; 1977, No. 910, § 2; A.S.A. 1947, §§ 71-2204, 71-2205; Acts 2013, No. 1216, § 6; 2015, No. 393, § 7; 2019, No. 910, § 5932.

substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in (a).

**Amendments.** The 2019 amendment

### **17-39-107. Disposition of funds.**

(a) All fees collected under this subchapter and § 17-39-201 et seq. shall be deposited into the State Treasury to the credit of the Division of Arkansas State Police Fund.

(b)(1) All funds received by the Division of Arkansas State Police shall be deposited into the State Treasury as special revenues to the credit of the Division of Arkansas State Police Fund.

(2) Money remaining at the end of the fiscal year shall not revert to any other fund but shall carry over to the next fiscal year.

**History.** Acts 1967, No. 413, § 5; A.S.A. 1947, § 71-2205; Acts 2013, No. 1216, § 7; 2015, No. 393, § 8; 2021, No. 476, § 1.

substituted “Division” for “Department” throughout the section; and substituted “§ 17-39-201 et seq.” for “subchapter 2” in (a).

**Amendments.** The 2021 amendment

**17-39-110. Director of Division of Arkansas State Police — Designee.**

The Director of the Division of Arkansas State Police may designate a person on his or her staff to administer and carry out the provisions of this subchapter and subchapter 2.

**History.** Acts 2015, No. 393, § 10; 2019, No. 910, § 5933.      Police” for “Department of Arkansas State Police” in the section heading and in the section text.

**Amendments.** The 2019 amendment substituted “Division of Arkansas State

**SUBCHAPTER 2 — LICENSING**

- SECTION.
- 17-39-201. License required.
  - 17-39-202. Qualifications.
  - 17-39-203. Initial polygraph examiner license or intern polygraph examiner license application.
  - 17-39-204. Agent for service for nonresident interns and licensees.
  - 17-39-205. License in another state or territory.
  - 17-39-206. Intern polygraph examiner license.
  - 17-39-208. Display of license and signature.

- SECTION.
- 17-39-209. Notification of address change.
  - 17-39-210. Expiration and renewal.
  - 17-39-211. Denial, suspension, revocation — Grounds.
  - 17-39-212. Criminal background check.
  - 17-39-213. Denial, suspension, revocation — Proceedings.
  - 17-39-214. Denial, suspension, revocation — Appeal.
  - 17-39-215. Rules.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

**17-39-201. License required.**

It is unlawful for a person, including a city, county, or state employee, to administer polygraph examinations or hold himself or herself out as a polygraph examiner or intern without a polygraph examiner license or intern polygraph examiner license approved and issued by the Director of the Division of Arkansas State Police.



**History.** Acts 1967, No. 413, §§ 6, 17; A.S.A. 1947, §§ 71-2206, 71-2216; Acts 2013, No. 1216, § 10; 2015, No. 393, § 11; 2019, No. 910, § 5934.

**Amendments.** The 2019 amendment substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police”.

### 17-39-202. Qualifications.

A polygraph examiner license or an intern polygraph examiner license may be issued to an applicant who:

(1) Is at least twenty-one (21) years of age at the time of application;

(2)(A) Has successfully completed a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to one (1) or more of the following in any court in the State of Arkansas or a comparable offense in another state or in a military or federal court, for which a pardon has not been granted:

(i) Felony;

(ii) Class A misdemeanor;

(iii) Crime involving violence; or

(iv) Crime involving moral turpitude.

(B) For purposes of this subdivision (2), the criminal background check shall include a record of all offenses that have been previously sealed or expunged by any court;

(3) Holds a baccalaureate degree from a college or university that is accredited by an accrediting agency approved by the United States Secretary of Education or has at least five (5) consecutive years of active law enforcement experience;

(4) Is a graduate of a polygraph examiners course approved by the Director of the Division of Arkansas State Police and has satisfactorily completed an internship of not less than six (6) months;

(5) Submits two (2) recent passport-style photographs of the applicant;

(6) Is not required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.; and

(7)(A)(i) Has furnished evidence of a surety bond or insurance policy to the Director of the Division of Arkansas State Police or proof that the applicant is covered by a business insurance policy.

(ii) The surety bond or insurance policy shall be in the sum of five thousand dollars (\$5,000).

(iii) The surety bond shall be conditioned that the obligor therein pay to the extent of the face amount of the surety bond or insurance policy all judgments recovered against the licensee by reason of any wrongful or illegal acts committed by him or her in the course of conducting a polygraph examination.

(B) An applicant who is conducting a polygraph examination solely in the course of his or her employment with a law enforcement agency may submit a letter from the county sheriff, municipal chief of police, or director of a state agency that states that any liability incurred will be covered under that entity’s membership in the Fidelity Bond Trust Fund, a risk management pool, or liability coverage, if any, in order to meet the requirement under this subdivision (7).

**History.** Acts 1967, No. 413, § 7; A.S.A. 1947, § 71-2207; Acts 1993, No. 1219, § 7; 2013, No. 1216, § 11; 2015, No. 393, § 12; 2019, No. 910, § 5935.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (4).

### **17-39-203. Initial polygraph examiner license or intern polygraph examiner license application.**

(a) An application for an initial polygraph examiner license or intern polygraph examiner license shall be made to the Director of the Division of Arkansas State Police on forms prescribed by the director and shall be accompanied by the required fee as set out in § 17-39-207.

(b) The burden is on the applicant to provide sufficient information to bring himself or herself within the licensing standards and allow the director to determine if the applicant is qualified to hold a license under this subchapter and subchapter 1.

**History.** Acts 1967, No. 413, § 9; A.S.A. 1947, § 71-2208; Acts 2013, No. 1216, § 12; 2015, No. 393, § 13; 2019, No. 910, § 5936.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a).

### **17-39-204. Agent for service for nonresident interns and licensees.**

(a) In addition to other application requirements, a polygraph examiner licensee or an intern polygraph examiner licensee who does not maintain a place of business in Arkansas shall file with the Director of the Division of Arkansas State Police an irrevocable consent that:

(1) Actions against the licensee may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose; and

(2) Service of process of the action may be obtained on the licensee by leaving two (2) copies of the process with the director.

(b) The consent shall stipulate and agree that the service of process upon the director shall be taken and held to be valid and binding for all purposes.

(c) The director shall promptly forward one (1) copy of the process to the licensee at the address shown on the records of the director by certified mail, return receipt requested.

**History.** Acts 1967, No. 413, § 10; A.S.A. 1947, § 71-2209; Acts 2013, No. 1216, § 13; 2015, No. 393, § 14; 2019, No. 910, § 5937.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language of (a).



**17-39-205. License in another state or territory.**

An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a two-year license by the Director of the Division of Arkansas State Police upon the production of satisfactory proof that the applicant:

(1)(A) Meets the requirements of §§ 17-39-202 and 17-39-204.

(B) The director may waive the requirements of § 17-39-202(3) and (4) for the licensing of polygraph examiners from a particular state or territory of the United States when, at the date of the applicant's licensing in that state, the license is substantially equivalent to the requirements now in force in this state;

(2) Has paid the fee under § 17-39-207(a)(1); and

(3) Had been actively and lawfully engaged in the administration of polygraph examinations under the laws of that state or territory for at least two (2) years before his or her application was submitted for a license under this subchapter and subchapter 1.

**History.** Acts 1967, No. 413, § 11; A.S.A. 1947, § 71-2210; Acts 1993, No. 1219, § 8; 2013, No. 1216, § 14; 2015, No. 393, § 15; 2019, No. 910, § 5938.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language.

**Amendments.** The 2019 amendment

**17-39-206. Intern polygraph examiner license.**

(a)(1) The Director of the Division of Arkansas State Police shall issue an intern polygraph examiner license to an applicant, provided that he or she submits a properly completed application, meets the licensing requirements, and pays the required fee under § 17-39-207.

(2) The application shall contain information required by the director.

(b) A person is qualified to receive an intern polygraph examiner license if he or she:

(1) Is at least twenty-one (21) years of age at the time of application;

(2)(A) Has successfully completed a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to one (1) or more of the following in any court in the State of Arkansas or a comparable offense in another state or in a military or federal court, for which a pardon has not been granted:

(i) Felony;

(ii) Class A misdemeanor;

(iii) Crime involving violence; or

(iv) Crime involving moral turpitude.

(B) For purposes of this subsection, the criminal background check shall include a record of all offenses that have been previously sealed or expunged by any court;

(3) Holds a baccalaureate degree from a college or university that is accredited by an accrediting agency approved by the United States

Secretary of Education or has at least five (5) consecutive years of active law enforcement experience;

(4) Is a graduate of a polygraph examiners course approved by the director; and

(5) Is not required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(c)(1) An intern polygraph examiner license shall be valid for the term of twelve (12) months from the date of issue.

(2) The intern polygraph examiner license may be renewed for one (1) six-month period.

(d)(1) An intern polygraph examiner license that is not renewed is permanently expired.

(2) A person whose intern polygraph examiner license expired under subdivision (d)(1) of this section and who subsequently wishes to obtain an intern polygraph examiner license shall make application as required by this section.

**History.** Acts 1967, No. 413, § 12; A.S.A. 1947, § 71-2211; Acts 2013, No. 1216, § 15; 2015, No. 393, § 16; 2019, No. 910, § 5939.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a)(1).

### 17-39-208. Display of license and signature.

A polygraph examiner license, an intern polygraph examiner license, or the photo identification card issued by the Director of the Division of Arkansas State Police shall be prominently displayed at the place of business of the licensee or worn on his or her person.

**History.** Acts 1967, No. 413, § 14; A.S.A. 1947, § 71-2213; Acts 2013, No. 1216, § 17; 2015, No. 393, § 18; 2019, No. 910, § 5940.

**Amendments.** The 2019 amendment substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police".

### 17-39-209. Notification of address change.

Notice in writing shall be given to the Director of the Division of Arkansas State Police by the polygraph examiner licensee or the intern of any change of principal business location, telephone number, or email address within thirty (30) days of the time he or she changes location, telephone number, or email address.

**History.** Acts 1967, No. 413, § 15; A.S.A. 1947, § 71-2214; Acts 2013, No. 1216, § 18; 2015, No. 393, § 19; 2019, No. 910, § 5941.

**Amendments.** The 2019 amendment substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police".

### 17-39-210. Expiration and renewal.

(a) Each polygraph examiner license shall be issued for the term of two (2) years and, unless suspended or revoked, may be renewed with



documentation prescribed by the Director of the Division of Arkansas State Police.

(b)(1) A polygraph examiner whose license has been expired for less than six (6) months may renew the license by making a renewal application and paying the renewal fee of fifty dollars (\$50.00) and a late fee of twenty dollars (\$20.00) required by § 17-39-207.

(2) However, any polygraph examiner license that has been expired for more than six (6) months shall be deemed permanently expired, and the polygraph examiner shall begin the process again as a new applicant.

(3) The calculation of the late fee or expiration time may be waived for a person who demonstrates that he or she was on active duty with the United States Armed Forces or the National Guard stationed outside of the State of Arkansas at the time of expiration.

(4) The requirements, as set out by the director, shall be met before renewal, including the submission of proof to the director of continuing polygraph examiner education of at least fourteen (14) hours successfully completed in the most recent two-year period in a training course approved by the director.

**History.** Acts 1967, No. 413, § 16; A.S.A. 1947, § 71-2215; Acts 2013, No. 1216, § 19; 2015, No. 393, § 20; 2019, No. 910, § 5942. substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in (a).

**Amendments.** The 2019 amendment

### 17-39-211. Denial, suspension, revocation — Grounds.

The Director of the Division of Arkansas State Police may deny, suspend, or revoke a polygraph examiner license or an intern polygraph examiner license on any one (1) or more of the following grounds:

(1) Failure of a licensee before conducting a polygraph examination to inform a subject to be examined of the nature of the polygraph examination;

(2) Failure of a licensee before conducting a polygraph examination to inform a subject to be examined that the subject’s participation in the polygraph examination is voluntary;

(3) Failure of a licensee to inform the subject of the polygraph examination of the results of the polygraph examination, if so requested;

(4) Violation of law or the rules of the director or failure to meet the qualifications for licensure under this subchapter and subchapter 1 by an applicant or a licensee;

(5) Material misstatement in any application for license under this subchapter and subchapter 1;

(6) Failure by an applicant or licensee to demonstrate the ability to act as a polygraph examiner or an intern polygraph examiner;

(7) Allowance by a licensee of another person to use the license or the licensee photo identification card or the intern photo identification card issued under this subchapter and subchapter 1;

(8) An applicant's or a licensee's knowingly aiding or abetting another person in the violation of this subchapter or subchapter 1 or a rule issued under this subchapter and subchapter 1;

(9) Failure by an applicant or licensee to provide within a reasonable time information requested by the director that would indicate a violation of this subchapter or subchapter 1 or a rule issued under this subchapter and subchapter 1; or

(10) Arrest or indictment of an applicant or a licensee for a felony, Class A misdemeanor, crime involving an act of violence, crime involving moral turpitude, including a sealed and expunged offense, or an offense of comparable level if the offense occurred in another state.

**History.** Acts 1967, No. 413, § 18; substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language.  
A.S.A. 1947, § 71-2217; Acts 2013, No. 1216, § 20; 2015, No. 393, § 21; 2019, No. 910, § 5943.

**Amendments.** The 2019 amendment

### **17-39-212. Criminal background check.**

(a) Each first-time applicant and applicant for license renewal shall be required to apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

(b) The state and national criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the Director of the Division of Arkansas State Police and shall be responsible for the payment of any fee associated with the state and national criminal background check.

(d) Upon completion of the state and national criminal background check, all releasable information obtained concerning the applicant shall be forwarded to the director.

(e) This section does not apply to a certified law enforcement officer who is a full-time employee of a law enforcement agency and who is applying for licensure as a polygraph examiner or intern polygraph examiner for the purpose of the full-time employment with the law enforcement agency.

**History.** Acts 1967, No. 413, § 19; substituted "Identification Bureau of the Department of Arkansas State Police" twice in (a); and A.S.A. 1947, § 71-2218; Acts 2013, No. 1216, § 22; 2015, No. 393, § 22; 2019, No. 910, §§ 5944, 5945.

**Amendments.** The 2019 amendment substituted "Identification Bureau of the Division of Arkansas State Police" for (c).



**17-39-213. Denial, suspension, revocation — Proceedings.**

(a)(1)(A) When the Director of the Division of Arkansas State Police seeks to deny an application or suspend or revoke a license issued under this subchapter and subchapter 1, the director shall notify the applicant or licensee in person or by certified mail, return receipt requested, at the last address supplied to the director by the applicant or licensee.

(B) The notice under subdivision (a)(1)(A) of this section shall include notification of the denial, suspension, or revocation, the reasons for the denial, suspension, or revocation, and the applicant's or licensee's right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the denial, suspension, or revocation action proposed to be taken by the director.

(2) Upon receipt by the director of the written request for a hearing from the applicant or the licensee, an opportunity for an administrative hearing shall be afforded as early as is practicable.

(3) The administrative hearing in a case under this subsection shall be before an administrative hearing officer appointed by the director.

(b)(1) The administrative hearing officer shall conduct the administrative hearing, and he or she may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, or other relevant evidence.

(2) The administrative hearing officer shall submit his or her recommendation to the director within sixty (60) days of the hearing.

(c)(1) Upon the suspension or revocation of any license, the licensee shall immediately surrender the license or licenses to the director.

(2) Failure of a licensee to surrender the license or licenses is a violation of this subchapter and subchapter 1, and upon conviction the licensee shall be subject to the penalties set forth in § 17-39-103.

(d)(1) The denial, suspension, or revocation of a license shall be governed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) Venue for the appeal to circuit court under this section shall be in Pulaski County, Arkansas.

**History.** Acts 1967, No. 413, §§ 21, 23; A.S.A. 1947, §§ 71-2220, 71-2222; Acts 2013, No. 1216, § 23; 2015, No. 393, § 23; 2019, No. 910, § 5946.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a)(1)(A).

**17-39-214. Denial, suspension, revocation — Appeal.**

(a) An applicant or licensee dissatisfied with the action of the Director of the Division of Arkansas State Police in denying, suspending, or revoking a license may appeal the decision of the director under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The director may be represented in an appeal by the Attorney General or any of his or her assistants.

**History.** Acts 1967, No. 413, § 22; A.S.A. 1947, § 71-2221; Acts 2013, No. 1216, § 24; 2015, No. 393, § 24; 2019, No. 910, § 5947.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a).

**Amendments.** The 2019 amendment

**17-39-215. Rules.**

The Director of the Division of Arkansas State Police may promulgate rules to permit the efficient administration of this subchapter and subchapter 1.

**History.** Acts 2013, No. 1216, § 25; 2015, No. 393, § 25; 2019, No. 910, § 5948.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police".

**Amendments.** The 2019 amendment

**SUBCHAPTER 3 — VOICE STRESS ANALYSIS EXAMINERS**

SECTION.

- 17-39-303. Applicant burden of proof.
- 17-39-304. Application for license — Proof and fee.
- 17-39-305. Fees.
- 17-39-306. Grounds for denying, suspending, or revoking licenses.
- 17-39-307. Rules.

SECTION.

- 17-39-308. Conduct of voice stress analysis examination.
- 17-39-309. Criminal background check.
- 17-39-311. Injunction.
- 17-39-313. Division of Arkansas State Police administration — Powers and duties.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

**17-39-303. Applicant burden of proof.**

An applicant who seeks licensure under this subchapter as a certified voice stress analysis examiner has the burden to provide sufficient information to bring himself or herself within the licensing standards



that would allow the Director of the Division of Arkansas State Police to determine if the applicant is qualified to hold the license.

**History.** Acts 1987, No. 858, § 2; 2015, substituted “Director of the Division of No. 393, § 28; 2019, No. 910, § 5949. Arkansas State Police” for “Director of the Department of Arkansas State Police”.

### **17-39-304. Application for license — Proof and fee.**

A person who desires to be licensed as a certified voice stress analysis examiner and conduct voice stress analysis examinations within this state shall apply for licensure to the Director of the Division of Arkansas State Police and shall submit with the application documentation that the applicant:

- (1) Is at least twenty-one (21) years of age at the time of application;
- (2) Has paid the fees required under § 17-39-305;
- (3) Has submitted two (2) recent passport-style photographs of the applicant;
- (4) Is not required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.;
- (5)(A) Has successfully completed a state and national criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to one (1) or more of the following in any court in the State of Arkansas or a comparable offense in another state or in a military or federal court, for which a pardon has not been granted:
  - (i) Felony;
  - (ii) Class A misdemeanor;
  - (iii) Crime involving violence; or
  - (iv) Crime involving moral turpitude.
- (B) For purposes of this subdivision (5), the state and national criminal background check shall include a record of all offenses that have been previously sealed or expunged by any court;
- (6) Holds a baccalaureate degree from a college or university that is accredited by an accrediting agency approved by the United States Secretary of Education or has at least five (5) years of active law enforcement or correctional employee experience;
- (7) Has successfully completed a course of training that has been approved by the Director of the Division of Arkansas State Police offering a certification in the operation of the voice stress analysis machine and submits a copy of the certification with the application; and
- (8)(A) Has provided evidence of a surety bond or insurance policy to the Director of the Division of Arkansas State Police in the amount of five thousand dollars (\$5,000) or proof that the applicant is covered by a business insurance policy.
- (B) The surety bond shall be issued on the condition that the obligor will pay to the extent of the face value of the surety bond or insurance policy all judgments that may be recovered against the applicant by reason of a wrongful or illegal act committed by him or her in the course of conducting voice stress analysis examinations.

(C) An applicant who is conducting voice stress analysis examinations in the course of his or her employment with a law enforcement agency, in lieu of a surety bond, may submit a letter from the county sheriff, chief of police, or director of the law enforcement agency that states that any liability incurred will be covered under that entity's membership in the Fidelity Bond Trust Fund, a risk management pool, or liability coverage, if any, in order to meet the requirement under this subdivision (8).

**History.** Acts 1987, No. 858, § 3; 1989, No. 410, § 1; 1993, No. 1219, § 9; 2013, No. 1472, § 2; 2015, No. 393, § 29; 2019, No. 910, §§ 5950, 5951; 2021, No. 936, § 1.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language and in (7).

The 2021 amendment inserted "or correctional employee" in (6).

### 17-39-305. Fees.

(a)(1) Except as provided under subdivision (a)(2) of this section, the applicant for licensure under this subchapter shall pay the following fees:

(A) For an initial two-year voice stress analysis examiner's license, one hundred twenty dollars (\$120);

(B) For a two-year renewal of a voice stress analysis examiner's license, fifty dollars (\$50.00);

(C) For the issuance of an optional wallet-sized voice stress analysis examiner's license photo identification card, fifteen dollars (\$15.00);

(D) For the issuance of a duplicate voice stress analysis examiner's license, ten dollars (\$10.00); and

(E) For renewal of a license that has been expired for less than six (6) months, a late fee of twenty dollars (\$20.00).

(2) A certified law enforcement officer or correctional employee who is a full-time employee of a law enforcement agency or correctional agency and who is applying for his or her license as a certified voice stress analysis examiner to be used solely in conjunction with his or her employment is not required to pay the fee under subdivisions (a)(1)(A) and (B) of this section.

(b)(1) All fees received by the Director of the Division of Arkansas State Police under this subchapter are nonrefundable and shall be deposited into the State Treasury as special revenues to the credit of the Division of Arkansas State Police Fund.

(2) Money remaining at the end of the fiscal year shall not revert to any other fund but shall carry over to the next fiscal year.

**History.** Acts 1987, No. 858, §§ 3, 4; 2013, No. 1472, § 3; 2015, No. 393, § 30; 2019, No. 910, § 5952; 2021, No. 936, § 2.

**Amendments.** The 2019 amendment, in (b)(1), substituted "Director of the Divi-

sion of Arkansas State Police" for "Director of the Department of Arkansas State Police" and substituted "Division of Arkansas State Police Fund" for "Department of Arkansas State Police Fund".



The 2021 amendment inserted "or correctional employee" and "or correctional agency" in (a)(2).

### **17-39-306. Grounds for denying, suspending, or revoking licenses.**

The Director of the Division of Arkansas State Police may deny, suspend, or revoke a license of a certified voice stress analysis examiner on one (1) or more of the following grounds:

(1) Failure of a certified voice stress analysis examiner before conducting a voice stress analysis examination to inform a subject to be examined of the nature of the voice stress analysis examination;

(2) Failure of a certified voice stress analysis examiner before conducting a voice stress analysis examination to inform a subject to be examined that the subject's participation in the voice stress analysis examination is voluntary;

(3) Failure of a certified voice stress analysis examiner to inform the subject of a voice stress analysis examination of the results of the examination, if so requested;

(4) Failure to meet the qualifications for licensure under this subchapter;

(5) Material misstatement in the application for licensure under this subchapter;

(6) Failure by an applicant for licensure as a certified voice stress analysis examiner or by a licensed certified voice stress analysis examiner to demonstrate the ability to act as a certified voice stress analysis examiner;

(7) Allowance of another person by a licensed certified voice stress analysis examiner to use the license or the license photo identification card issued under this subchapter;

(8) An applicant's or a licensed certified voice stress analysis examiner's knowing disregard or violation of this subchapter or of any rule issued under this subchapter, including without limitation knowingly making a false report concerning the results of a voice stress analysis examination;

(9) An applicant's or a licensed certified voice stress analysis examiner's knowingly aiding or abetting another person in the violation of this subchapter or a rule issued under this subchapter;

(10) Failure by an applicant for licensure as a certified voice stress analysis examiner or by a licensed certified voice stress analysis examiner to provide within a reasonable time information requested by the director as the result of a formal complaint that may indicate a violation of this subchapter or a rule issued under this subchapter;

(11) Arrest or indictment of an applicant for licensure as a certified voice stress analysis examiner or of a licensed certified voice stress analysis examiner for a felony, Class A misdemeanor, crime involving an act of violence, a crime involving moral turpitude, or an offense of comparable level if the offense occurred in another state; or

(12) Failure of a certified voice stress analysis examiner to discuss how the results of the voice stress analysis exam will be used with the subject of the voice stress analysis exam.

**History.** Acts 1987, No. 858, § 7; 2013, No. 1472, § 4; 2015, No. 393, § 31; 2019, No. 910, § 5953; 2021, No. 936, § 3.

**Amendments.** The 2019 amendment substituted “Director of the Division of

Arkansas State Police” for “Director of the Department of Arkansas State Police” in the introductory language.

The 2021 amendment added (12).

### 17-39-307. Rules.

The Director of the Division of Arkansas State Police may promulgate rules to permit the efficient administration of this subchapter.

**History.** Acts 1987, No. 858, § 5; 2013, No. 1472, § 5; 2015, No. 393, § 32; 2019, No. 910, § 5954.

**Amendments.** The 2019 amendment

substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police”.

### 17-39-308. Conduct of voice stress analysis examination.

(a) Except as provided in subsection (d) of this section, a voice stress analysis examination shall be conducted only in person.

(b) Before undergoing the voice stress analysis examination, the subject of the voice stress analysis examination shall provide his or her written permission.

(c) The certified voice stress analysis examiner shall record and analyze the responses of the subject of the voice stress analysis examination.

(d)(1) A certified law enforcement officer or correctional employee who is a full-time employee of a law enforcement or correctional agency and who is acting in the course of his or her employment for the law enforcement agency may conduct a voice stress analysis examination from a legally recorded conversation.

(2) If the voice stress analysis examination is conducted under subdivision (d)(1) of this section:

(A) The conversation may be recorded:

(i) In person; or

(ii) By telephone; and

(B) The certified law enforcement officer or correctional employee shall ensure compliance with subsection (b) of this section.

**History.** Acts 1987, No. 858, § 6; 2013, No. 1472, § 6; 2015, No. 393, § 33; 2021, No. 936, § 4.

**Amendments.** The 2021 amendment

inserted “or correctional employee” in (d)(1) and (d)(2)(B) and inserted “or correctional” in (d)(1).

### 17-39-309. Criminal background check.

(a)(1) Each first-time applicant and each applicant for renewal of licensure as a certified voice stress analysis examiner shall apply to the



Division of Arkansas State Police for a state and national criminal background check to be conducted by the division and the Federal Bureau of Investigation.

(2) Criminal history records from the Arkansas Crime Information Center shall be available to the Director of the Division of Arkansas State Police for the review of an applicant's qualifications.

(b) The state and national criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the director and shall be responsible for the payment of any fee associated with the state and national criminal background check.

(d) Upon completion of the state and national criminal background check, the division shall forward to the director all releasable information obtained concerning the applicant.

(e) This section does not apply to a certified law enforcement officer or correctional employee who is a full-time employee of a law enforcement agency or correctional agency and who is applying for licensure as a certified voice stress analysis examiner for the purpose of the full-time employment with the law enforcement agency.

**History.** Acts 2013, No. 1472, § 7; 2015, No. 393, § 34; 2019, No. 910, §§ 5955, 5956; 2021, No. 936, § 5.

**Amendments.** The 2019 amendment, in (a)(1), substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" and substituted "division" for "department"; substituted

"Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a)(2); and substituted "division" for "department" in (d).

The 2021 amendment inserted "or correctional employee" and "or correctional agency" in (e).

### 17-39-311. Injunction.

(a) If a person violates this subchapter, the Director of the Division of Arkansas State Police, through the Attorney General, may apply in the circuit court having jurisdiction for an order enjoining the violation or for an order enforcing compliance with this subchapter.

(b)(1) Upon the filing of a verified petition in the court, the court, if satisfied by affidavit or otherwise that the person has violated this subchapter, may issue a temporary injunction without notice or bond enjoining the continued violation.

(2) If it is established that the person has violated or is violating this subchapter, the court may enter a decree perpetually enjoining the violation or enforcing compliance with this subchapter.

(c) In case of violation of any order or decree issued under this section, the court may sentence the offender for contempt of court.

(d) Punishment for a violation under this section shall be in addition to, but not in lieu of, all other remedies and penalties provided by this subchapter.

**History.** Acts 2013, No. 1472, § 7; substituted “Director of the Division of  
2015, No. 393, § 36; 2019, No. 910, Arkansas State Police” for “Director of the  
§ 5957. Department of Arkansas State Police” in

**Amendments.** The 2019 amendment (a).

### **17-39-313. Division of Arkansas State Police administration — Powers and duties.**

(a) The Director of the Division of Arkansas State Police may perform the functions and duties enumerated within this subchapter with respect to the licensing of certified voice stress analysis examiners and perform all other acts incidental and necessary to the proper performance of the functions and duties as prescribed in this subchapter.

(b) The director shall issue rules consistent with this subchapter for the administration and enforcement of this subchapter and shall prescribe and issue forms in connection with this subchapter.

(c) The director shall have no financial, personal, or business interests, contingent or otherwise, in an entity licensed under this subchapter.

(d) The director or his or her designee is the agent for service of process for all legal process and documents required by law to be served in conjunction with this subchapter.

(e) The director may grant, deny, suspend, or revoke any license issued under this subchapter and levy fines for violation of the licensing provisions of this subchapter.

**History.** Acts 2013, No. 1472, § 7; substituted “Director of the Division of  
2015, No. 393, § 38; 2015, No. 1156, § 6; Arkansas State Police” for “Director of the  
2019, No. 910, § 5958. Department of Arkansas State Police” in

**Amendments.** The 2019 amendment (a).

## **CHAPTER 40**

### **PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES**

#### **SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. ADMINISTRATION BY THE DIVISION OF ARKANSAS STATE POLICE.
3. LICENSE, CREDENTIAL, AND COMMISSION.

#### **SUBCHAPTER 1 — GENERAL PROVISIONS**

##### **SECTION.**

- 17-40-102. Definitions.  
17-40-103. Exemptions.  
17-40-105. Notice of violation.

##### **SECTION.**

- 17-40-106. Exclusive regulation — Authority of political subdivisions.



**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

## 17-40-102. Definitions.

As used in this chapter:

(1) "Alarm systems agent" means an individual employed by an alarm systems company who sells on site, performs a survey of the premises to be protected, or responds to alarm signal devices, burglar alarms, or cameras;

(2) "Alarm systems apprentice" means an individual employed by an alarm systems company who installs, services, or repairs on site and who is supervised by an alarm systems technician, a supervisor of technicians, or a manager;

(3) "Alarm systems company" means a person, firm, association, or corporation that for a fee or other valuable consideration installs, services, sells on site, performs a survey of the premises to be protected, monitors, or responds to electrical, electronic, or mechanical alarm signal devices, burglar alarms, television cameras, or still cameras used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, holdup, or other illegal or unauthorized activity;

(4) "Alarm systems monitor" means an individual employed by an alarm systems company who monitors or responds to an electrical, electronic, or mechanical alarm signal device, burglar alarm, television camera, or still camera used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, holdup, or other illegal or unauthorized activity;

(5) "Alarm systems technician" means an individual employed by an alarm systems company who installs, services, or repairs on site an electrical, electronic, or mechanical alarm signal device, burglar alarm, television camera, or still camera used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, holdup, or other illegal or unauthorized activity;

(6) "Arkansas Fire Prevention Code" means the International Fire Code, the International Building Code, and the International Residential Code for One- and Two-Family Dwellings as published by the International Code Council, and the rules as amended and adopted by the State Fire Marshal;

(7) "Armored car company" means a person that provides armed security transportation and protection of money, currency, coins, bullion, securities, bonds, jewelry, or other valuables from one place or point to another place or point;

(8)(A) "Assistant training administrator" means a person employed by a licensed company who may assist the training administrator with conducting the training of security personnel.

(B) The assistant training administrator shall certify to the Director of the Division of Arkansas State Police that the required training has been completed;

(9) "Burglar alarm" means a system designed to detect intrusion or unauthorized entry into a building, premises, or area;

(10) "Commissioned school security officer" means a private security officer who:

(A) Provides security for the school; and

(B) Has received an authorization issued by the director to carry a firearm in the course of his or her employment;

(11) "Commissioned security officer" means a private security officer to whom an authorization to carry a firearm in the course of his or her employment has been issued by the director;

(12) "Consumer reporting agency" means a person that employs an individual who, for a monetary fee, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(13) "Convicted" means that a person pleaded guilty or nolo contendere to or was found guilty of a criminal offense, including a conviction that has been sealed or expunged;

(14) "Credential" means an authorization granted by the Division of Arkansas State Police to an individual to perform the duties of a private investigator, alarm systems monitor, alarm systems apprentice, alarm systems technician, alarms systems agent, private security officer, commissioned security officer, commissioned school security officer, assistant training administrator, training administrator, training instructor, manager, or branch office manager;

(15) "ESA" means the Electronic Security Association;

(16)(A) "Firearm" means a device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use.

(B) "Firearm" includes:

(i) A device described in subdivision (16)(A) of this section that is not loaded or lacks a clip or another component to render it immediately operable; and

(ii) Components that can readily be assembled into a device described in subdivision (16)(A) of this section;

(17) "Guard company" means a person engaging in the business of providing or undertaking to provide services on a contractual basis for



another person and performing one (1) or more of the following or similar functions:

(A) Prevention of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

(B) Prevention, observation, or detection of any unauthorized activity on private property;

(C) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of property; or

(D) Protection of individuals from bodily harm;

(18)(A) "Investigations company" means a person or entity that engages in the business or accepts employment to obtain or furnish information with reference to:

(i) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

(ii) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person;

(iii) The location, disposition, or recovery of lost or stolen property;

(iv) The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property; or

(v) The securing of evidence to be used before any court, board, officer, or investigating committee.

(B)(i) A Class A investigations company may employ one (1) or more credentialed individuals.

(ii) A Class D investigations company may not employ more than one (1) credentialed individual;

(19) "License" means a permit granted by the director entitling a person to operate as a security services contractor, an investigations company, or an alarm systems company;

(20) "Licensee" means a person to whom a license is granted under this chapter;

(21) "Manager" means, in the case of a corporation, an officer or supervisor or, in the case of a partnership, a general or unlimited partner meeting the experience qualifications for managing a security services contractor, private business, or an investigations company;

(22) "Monitoring" means to observe, watch, surveil, and make appropriate response to an electrical, electronic, or mechanical alarm signal device, burglar alarm, television camera, or still camera used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, holdup, or other illegal or unauthorized activity;

(23) "NBFAA" means the National Burglar and Fire Alarm Association;

(24) "NFPA" means the National Fire Protection Association;

(25) "NICET" means the National Institute for Certification in Engineering Technologies;

(26) "Person" means an individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity;

(27) "Private investigator" means a person who engages in the business or accepts employment to obtain or furnish information with reference to:

(A) A crime or wrong done or threatened against the United States or any state or territory of the United States;

(B) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person;

(C) The location, disposition, or recovery of lost or stolen property;

(D) The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property; or

(E) The securing of evidence to be used before a court, board, officer, or investigating committee;

(28) "Private school" means the property, grounds, or students of a private school for grades prekindergarten through twelve (preK-12), including a daycare program operated by the school;

(29) "Private security officer" means an individual employed by a security services contractor or the security department of a private business or armored car company to perform at least one (1) of the following duties:

(A) Prevention of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

(B) Prevention, observation, or detection of any unauthorized activity on private property;

(C) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of property;

(D) Protection of individuals from bodily harm; or

(E) Providing of armed security transportation and protection of money, currency, coins, bullion, securities, bonds, jewelry, or other valuable items from one place to another place;

(30) "Public charter school" means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school;

(31) "School" means a school district, public charter school, or private school, including any daycare program operated by the school;

(32) "School district" means the property, grounds, or students of a school for grades prekindergarten through twelve (preK-12), including any daycare program operated by the school;

(33) "Security department of a private business or school" means the security department of a person or school if the general purpose of the security department is the protection and security of its own property, grounds, or students and if it does not offer or provide security services to any other person or school;



(34) "Security services contractor" means a guard company or armored car company;

(35) "Single-station alarm systems company" means a person that for a fee or other valuable consideration installs, services, or sells on site fire, smoke, or heat detectors to be installed in a one-family or two-family dwelling or that performs a survey of the premises to be protected if the detectors are single-station installations and not a part of or connected to any other detection device or system;

(36) "Supervisor of technicians" means an individual employed by an alarm systems company who supervises alarm systems technicians or alarm systems apprentices and who may install, service, or repair on site, or who performs a survey of the premises to be protected, monitors, or responds to electrical, electronic, or mechanical alarm signal devices, burglar alarms, television cameras, or still cameras used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, holdup, or other illegal or unauthorized activity;

(37)(A) "Training administrator" means a person employed by a licensed company designated by a Class B, Class C, or Class G company designation or by the security department of a private business to conduct training for the security personnel.

(B) The training administrator shall certify to the director that the required training has been completed;

(38)(A) "Training instructor" means a person employed by a licensed company who may assist the training administrator with conducting the training of security personnel.

(B) However, a training instructor shall not certify that the required training has been completed; and

(39) "Undercover agent" means an individual hired by another individual, partnership, corporation, or other business entity to perform a job for that individual, partnership, corporation, or other business entity and, while performing the job, to act as an undercover agent, employee, or independent contractor of a licensee, and supervised by a licensee.

**History.** Acts 1977, No. 429, § 2; 1979, No. 907, §§ 1-3; 1983, No. 899, §§ 1, 2; 1985, No. 1004, §§ 13-15; A.S.A. 1947, § 71-2123; Acts 1989, No. 651, § 1; 1989, No. 926, § 1; 1999, No. 1493, § 1; 2001, No. 1474, § 1; 2015, No. 393, § 40; 2019, No. 910, §§ 5959, 5960.

**Amendments.** The 2019 amendment substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (8)(B); and substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" in (14).

## 17-40-103. Exemptions.

(a) This chapter does not apply to:

(1) A person employed exclusively and regularly by one (1) employer in connection with the affairs of that employer only and where there exists an employer-employee relationship;

(2) An officer or employee of the United States, of this state, or of a political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) A person not in the employ of another law enforcement officer and who has part-time or full-time employment as a law enforcement officer and who is certified by the Arkansas Commission on Law Enforcement Standards and Training as a law enforcement officer and receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if the person is:

(A) Employed in an employee-employer relationship; or

(B) Employed on an individual contractual basis;

(4) A person engaged exclusively in the business of obtaining and furnishing information for purposes of credit worthiness or collecting debts or ascertaining the financial responsibility of applicants for property insurance and for indemnity or surety bonds, with respect to persons, firms, and corporations;

(5) Consumer reporting agencies;

(6) A licensed attorney in performing his or her duties, or an employee of an attorney only in connection with providing investigative services to the attorney and his or her practice;

(7) Admitted insurers, insurance adjusters, agents, and insurance brokers licensed by the state performing duties in connection with insurance transacted by them;

(8) An officer, employee, or agent of a communications common carrier, as defined in 47 U.S.C. § 153(11), while engaged in the normal course of business of the carrier or protecting the carrier or a user of the services of that carrier from fraudulent, unlawful, or abusive use of services;

(9) A professional engineer registered with the State Board of Licensure for Professional Engineers and Professional Surveyors engaged in providing investigative services as outlined in this chapter;

(10) A person that sells or manufactures alarm systems, unless such a person or business performs any service as an alarm systems company;

(11) Installation, servicing, or responding to fire alarm systems or any alarm device that is installed in a motor vehicle, aircraft, or boat;

(12) Installation of an alarm system on property owned by or leased to the installer;

(13) Installation of fixed fire extinguisher systems by persons licensed by the Arkansas Fire Protection Licensing Board;

(14) Installation of the raceway, conductors, and components of a fire alarm system by an entity holding a valid Arkansas contractor's license, electrical classification, when the systems are furnished by alarm systems companies licensed under this chapter, provided the alarm systems company:

(A) Furnishes a system designed to comply with applicable codes and standards;



(B) Furnishes the installing contractor with wiring diagrams and specifications for the required conductors;

(C) Provides periodic job site inspections of the installation in progress;

(D) Connects and installs the system components;

(E) Tests the completed installation in compliance with the Arkansas Fire Prevention Code and NFPA standard number 72: National Fire Alarm and Signaling Code, 2013 Edition, providing the owner's representative and the local fire marshal with test documentation; and

(F) Instructs the system owner's representative and provides operator manuals for the installed system;

(15) Alarm system agents, alarm system apprentices, and alarm system technicians for a class E-S license are exempt from the requirements for National Burglar and Fire Alarm Association Level 1 and 2 certification;

(16) An agent, employee, or sales representative of an alarm systems company, if the agent, employee, or sales representative:

(A) Does not alter, install, maintain, move, repair, replace, service, or reconfigure an alarm system or any individual component connected to an alarm system at an end-user's premises; and

(B) Is not granted access to passwords or codes that can be used to arm or disarm the alarm system installed at a specific end-user premises;

(17) A certified public accountant licensed by the state performing his or her duties, only in connection with providing investigative services, and all employees, independent contractors, or agents acting under the supervision of a certified public accountant licensed by the state, only in connection with providing investigative services to the certified public accountant and his or her practice; and

(18)(A) Installation of a device that is on property owned or leased by a person monitoring the device.

(B) As used in subdivision (a)(18)(A) of this section, "device" includes without limitation an electrical, electronic, or mechanical alarm signal device, burglar alarm, television camera, or still camera used to manually or automatically signal or detect a burglary, an act of breaking and entering, shoplifting, pilferage, theft, a holdup, or other illegal or unauthorized activity.

(C)(i) A technician who is installing a device as described in subdivision (a)(18)(A) of this section is required to submit to a state and national criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

(ii) The state and national criminal background check described in subdivision (a)(18)(C)(i) of this section shall:

(a) Conform to all applicable federal standards; and

(b) Include the taking of fingerprints.

(b)(1) If the security department of a private business or school hires or employs an individual in the capacity of a commissioned security

officer or commissioned school security officer, the security department of the private business or school is not required to make application to the Division of Arkansas State Police for any license under this chapter.

(2) However, the private business or school is required to be recognized by the Director of the Division of Arkansas State Police as a private business or school for the purpose of employing the commissioned security officer or commissioned school security officer.

(c) Notwithstanding any other provision of this chapter, employees of a licensee who are employed exclusively as undercover agents are not required to register with the director under this chapter.

**History.** Acts 1977, No. 429, §§ 3, 38; 1979, No. 907, § 4; 1983, No. 899, § 3; 1985, No. 756, § 1; A.S.A. 1947, §§ 71-2124, 71-2159; Acts 1987, No. 630, § 1; 1989, No. 651, § 2; 1989, No. 926, § 2; 1991, No. 709, § 1; 1999, No. 1493, § 2; 2001, No. 1474, § 4; 2013, No. 1475, § 1; 2015, No. 393, § 41; 2019, No. 910, § 5961; 2021, No. 660, § 1.

**Amendments.** The 2019 amendment substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" in (b)(1); and substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (b)(2).

The 2021 amendment added (a)(18).

### 17-40-105. Notice of violation.

The Director of the Division of Arkansas State Police shall not deny, suspend, revoke, or fine any person required to be licensed, credentialed, or commissioned under this chapter unless the person has been notified of the alleged violation of this chapter within three hundred sixty-five (365) days after the occurrence of the alleged violation.

**History.** Acts 1983, No. 899, § 11; A.S.A. 1947, § 71-2160; Acts 2015, No. 393, § 43; 2019, No. 910, § 5962.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police".

**Amendments.** The 2019 amendment

### 17-40-106. Exclusive regulation — Authority of political subdivisions.

(a) The regulation of investigation, security, and alarm systems companies is exclusive to the Director of the Division of Arkansas State Police.

(b) Licensees and employees of licensees under the provisions of this chapter are not required to obtain any authorization, permit, franchise, or license from, or pay another fee or franchise tax to, or post bond in any city, county, or other political subdivision of this state to engage in the business or perform any service authorized under this chapter.

(c) However, any city or county may require a company operating within its jurisdiction to register without fee and may adopt an ordinance to require users of alarm systems to obtain revocable permits without fee.



**History.** Acts 1989, No. 926, § 15; 2015, No. 393, § 44; 2019, No. 910, § 5963.

**Amendments.** The 2019 amendment substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in (a).

SUBCHAPTER 2 — ADMINISTRATION BY THE DIVISION OF ARKANSAS STATE POLICE

- SECTION.  
17-40-204. Administration.  
17-40-207. Powers and duties.  
17-40-208. Training of personnel.
- SECTION.  
17-40-209. Fees — Disposition of funds — Legislative intent.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-40-204. Administration.

- (a) The Director of the Division of Arkansas State Police shall perform such duties as may be prescribed by the director and shall have no financial, personal, or business interests in an entity licensed under this chapter.
- (b) All legal processes and all documents required by law shall be served upon the director or his or her designee or filed within the Division of Arkansas State Police.

**History.** Acts 1977, No. 429, § 4; A.S.A. 1947, § 71-2125; Acts 2015, No. 393, § 50; 2019, No. 910, § 5964.

**Amendments.** The 2019 amendment substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in (a); and substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in (b).

17-40-207. Powers and duties.

- (a) The Director of the Division of Arkansas State Police shall have the following powers and duties:
- (1) To determine the qualifications of applicants as provided in this chapter;
- (2) To investigate alleged violations of this chapter and of any rules adopted by the director;

(3) To grant, deny, suspend, or revoke any license, credential, or commission issued under this chapter and to levy fines for violation of this chapter;

(4) To authorize a licensed or credentialed private investigator from another state to operate in this state for up to ten (10) calendar days without being issued a credential under this chapter, under the rules promulgated by the director;

(5) To promulgate reasonable rules in the manner provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(6) To establish and enforce standards governing the safety and conduct of persons licensed, credentialed, or commissioned under this chapter.

(b)(1) In the conduct of any investigation performed under this chapter, the director may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents.

(2)(A) The administrative hearing officer shall conduct the administrative hearing, and he or she may administer oaths, require testimony, and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, or other relevant evidence.

(B) The administrative hearing officer shall submit his or her recommendation to the director within sixty (60) days of the hearing.

(c) The director may designate a person on his or her staff to administer and carry out this chapter.

**History.** Acts 1977, No. 429, §§ 9, 10; 1981, No. 792, § 2; A.S.A. 1947, §§ 71-2130, 71-2131; Acts 2015, No. 393, § 53; 2019, No. 910, § 5965.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language in (a).

**Amendments.** The 2019 amendment

## 17-40-208. Training of personnel.

(a) The Director of the Division of Arkansas State Police shall establish minimum training requirements under this chapter for a private security officer, a commissioned security officer, and a commissioned school security officer.

(b) For a private security officer, the minimum training requirements under this chapter include without limitation the following topics:

(1) Legal limitations on the use of firearms and on the powers and authority of the private security officer;

(2) Familiarity with this chapter;

(3) Field note taking and report writing; and

(4) Other topics that the director deems necessary.

(c) For a commissioned security officer, the minimum training requirements under this chapter include without limitation the following topics:



(1) Legal limitations on the use of firearms and on the powers and authority of the commissioned security officer;

(2) Familiarity with this chapter;

(3) Field note taking and report writing;

(4) Range firing and procedure and handgun safety and maintenance; and

(5) Other topics the director deems necessary.

(d) For a commissioned school security officer, the minimum training requirements under this chapter include without limitation the following topics:

(1) Legal limitations on the use of firearms and on the powers and authority of the commissioned school security officer;

(2) Familiarity with this chapter;

(3) Field note taking and report writing;

(4) Fundamental use of firearms, including firearm safety drills, tactics, and required qualification on an approved course of fire;

(5) Active shooter training;

(6) Active shooter simulation scenarios;

(7) Trauma care;

(8) Defensive tactics;

(9) Weapon retention;

(10) Handgun safety and maintenance; and

(11) Other topics the director deems necessary.

(e) When an individual meets the training requirements approved by the director, that individual shall not be required to be retrained until two (2) years after the private security officer, commissioned security officer, or commissioned school security officer is commissioned.

**History.** Acts 1977, No. 429, § 36; 1979, No. 907, § 20; 1981, No. 792, § 18; 1983, No. 899, § 10; A.S.A. 1947, § 71-2157; Acts 2005, No. 2237, § 7; 2015, No. 393, § 54; 2019, No. 910, § 5966.

**Amendments.** The 2019 amendment substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a).

## **17-40-209. Fees — Disposition of funds — Legislative intent.**

(a) It is the intent of the General Assembly that the cost of investigating and credentialing private investigators or licensing private security agencies as authorized by this chapter be borne by the individuals and agencies so credentialed or licensed.

(b) To assure that the intent is carried out, the expenditure for personal services and operating expenses associated with investigating and licensing, credentialing, or commissioning of individuals and agencies required to be licensed, credentialed, or commissioned under this chapter shall be limited in the aggregate to the amount deposited into the State Treasury to the credit of the Division of Arkansas State Police Fund from license, credential, and commission fees of the individuals and agencies.

(c) In order to provide sufficient revenues to carry out the duties and functions prescribed by this chapter, the Director of the Division of

Arkansas State Police shall levy fees for licenses, credentials, and commissions as authorized by this chapter as determined by the director.

(d) A late fee or a fine may be levied by the director.

(e)(1) All funds received by the director shall be deposited into the State Treasury as special revenues to the credit of the Division of Arkansas State Police Fund.

(2) Money remaining at the end of the fiscal year shall carry over to the next fiscal year and shall not revert to any other fund.

**History.** Acts 1977, No. 429, § 17; 1979, No. 907, § 11; 1981, No. 792, § 9; 1983, No. 537, § 8; A.S.A. 1947, §§ 71-2138, 71-2162; Acts 1989, No. 926, § 3; 1995, No. 430, § 1; 1999, No. 1493, § 4; 2005, No. 2237, § 8; 2015, No. 393, § 55; 2019, No. 910, §§ 5967, 5968.

**Amendments.** The 2019 amendment

substituted "Division of Arkansas State Police Fund" for "Department of Arkansas State Police Fund" in (b) and (e)(1); and substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (c).

### SUBCHAPTER 3 — LICENSE, CREDENTIAL, AND COMMISSION

#### SECTION.

- 17-40-301. Unlawful acts.
- 17-40-302. Fees.
- 17-40-306. License or credential — Applicant qualifications.
- 17-40-307. License or credential — Application and examination.
- 17-40-308. License or credential — Insurance prerequisite.
- 17-40-310. License and credential — Form.
- 17-40-312. License and credential — Termination.
- 17-40-313. License and credential — Expiration and renewal.
- 17-40-314. Managers.
- 17-40-315. Duties of licensee or credential holder.
- 17-40-316. Licenses and credentials — Change of address, telephone number, email address, name, or officers or partners.
- 17-40-317. Licensees and credential holders — Windup period.
- 17-40-318. Training requirements for alarm systems company.
- 17-40-325. License or credential application.

#### SECTION.

- 17-40-329. Issuance of credential photo identification card — Transfer and fee — Cancellation.
- 17-40-330. Authority to issue commission to carry a firearm.
- 17-40-337. Commission — Applicant qualifications.
- 17-40-339. Commission — Notice to law enforcement.
- 17-40-340. Commission — Issuance of identification card.
- 17-40-342. Commission — Termination.
- 17-40-344. Commission — Denial, suspension, or revocation.
- 17-40-349. Suspension for nonpayment of child support.
- 17-40-350. Grounds for disciplinary action.
- 17-40-351. Procedure for denial.
- 17-40-352. License, credential, or commission — Record of denial, revocation, or suspension.
- 17-40-353. Reciprocity — Private investigator.
- 17-40-354. Fingerprint cards.
- 17-40-356. Advertising.

**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause

provided: "It is found and determined by the General Assembly of the State of Ar-



kansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Acts 2021, No. 61, § 2: Feb. 4, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that home security and alarm companies often use advertising and marketing materials to promote their services; that in some cases,

the home security and alarm companies that are advertising or sending marketing materials to the citizens of Arkansas are not licensed in this state or do not list the company name on the advertising or marketing materials; that the lack of licensing information and the company name from advertising and marketing materials can result in confusion to the consumers of Arkansas and may constitute deceptive advertising and marketing; and that this act is immediately necessary to protect the consumers of Arkansas from deceptive advertising and marketing materials. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

### 17-40-301. Unlawful acts.

(a) Except as provided under § 17-40-325, it is unlawful for a person to knowingly:

(1) Perform any service as a private investigator unless the person has obtained a credential to perform the services of a private investigator under this chapter;

(2) Perform any service as or engage in the business or business activity of a security services contractor or alarm systems company unless the person has obtained a license as a securities services contractor or alarm systems company under this chapter;

(3) Engage in an operation outside the scope of the person's license or credential; or

(4) Perform any service that requires a license, credential, or commission under this subchapter without having first been issued that license, credential, or commission.

(b) A credential holder or a licensee or an officer, director, partner, manager, or employee of a licensee shall not knowingly make a false report to his or her employer or client for whom information was being obtained.

(c)(1) A credential holder, licensee, manager, or agent authorized by one (1) or both the licensee or manager shall have the sole responsibility of knowingly submitting a written investigative report to a client.

(2) The person submitting the written investigative report shall exercise due diligence in ascertaining the truth and accuracy of the information in the report.

(d) A credential holder, or a licensee or officer, director, partner, manager, or employee of a licensee, except a full-time police officer, shall not knowingly use a title, wear a uniform, use an insignia, use an identification, or make any statement with the intent to give the impression that the person is connected in any way with the United States Government, a state government, county government, city government, or any political subdivision of a state government.

(e) It is unlawful for a person to misrepresent that he or she is employed by a credential holder or a licensee.

(f)(1) It is unlawful for a state, county, or municipal government or political subdivision of a state, county, or municipal government to install, service, maintain, monitor, operate, sell, or lease as lessor a burglar alarm, fire alarm system, or other electronic security system on private property if a private contractor licensed to do business within the county or municipality offers such systems or services to the public within the county or municipality.

(2) This section does not prohibit a county or municipal government from installing, servicing, maintaining, or operating a burglar alarm or fire alarm system on property owned or leased by a county or municipal government.

(3) This subsection does not apply to an entity authorized to provide, directly or indirectly, voice, data, broadband, video, or wireless telecommunications services under § 23-17-409(b)(2).

(g) A person shall not program an automatic dialing device to call a law enforcement agency, fire department, emergency health service, or a state, city, or county agency without the prior approval of the Director of the Division of Arkansas State Police.

(h) A credential holder or a licensee shall not contract or subcontract with an unlicensed person or uncredentialed individual to perform a service that requires a credential or a license under this chapter.

(i) A person licensed only as a security services contractor shall not engage in an investigation unless the investigation is incidental to the theft, loss, embezzlement, misappropriation, or concealment of property that the person has been hired or engaged to protect.

(j) A person shall not employ an individual as a private security officer and knowingly authorize or permit him or her to carry a firearm during the course of performing his or her duties as a private security officer if the director has not issued the private security officer a security officer commission.

(k) An individual employed as a private security officer shall not knowingly carry a firearm during the course of performing his or her duties as a private security officer if the director has not issued him or her a security officer commission.

(l) A person shall not knowingly hire or employ an individual as a private security officer and an individual shall not accept employment



as a private security officer if the employment requires the private security officer to carry a firearm in the course and scope of his or her duties, unless the private security officer is a commissioned security officer.

**History.** Acts 1977, No. 429, §§ 13, 25; 1979, No. 907, § 15; 1981, No. 792, § 12; 1983, No. 899, § 7; A.S.A. 1947, §§ 71-2134, 71-2146; Acts 1989, No. 926, § 4; 1991, No. 786, § 23; 1999, No. 1493, § 5; 2015, No. 393, § 57; 2016 (3rd Ex. Sess.),

No. 10, § 1; 2016 (3rd Ex. Sess.), No. 11, § 1; 2019, No. 910, § 5969.

**Amendments.** The 2019 amendment substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in (g).

17-40-302. Fees.

(a) The Director of the Division of Arkansas State Police may assess fees under this chapter as follows:

- (1) For an initial application:
- (A) Alarm systems agent, alarm systems apprentice, alarm systems technician, or alarm systems monitor credential ..... \$40.00;

(B) Class A license ..... \$600;

(C) Class B license ..... \$600;

(D) Class C license ..... \$850;

(E) Class D license ..... \$300;

(F) Class E-M license ..... \$600;

(G) Class E Restricted license ..... \$600;

(H) Class E-S license ..... \$600;

(I) Class E Unrestricted license ..... \$600;

(J) Class G license ..... \$1,200;

(K) Security guard credential..... \$40.00; and

(L) Credentialed private investigator ..... \$450;
- (2) For a renewal application:
- (A) Alarm systems agent, alarm systems apprentice, alarm systems technician, or alarm systems monitor credential ..... \$40.00;

(B) Class A license ..... \$300;

(C) Class B license ..... \$300;

(D) Class C license ..... \$500;

(E) Class D license ..... \$150;

(F) Class E-M license ..... \$300;

(G) Class E Restricted license ..... \$300;

(H) Class E-S license ..... \$300;

(I) Class E Unrestricted license ..... \$300;

(J) Class G license ..... \$600;

(K) Security guard credential..... \$40.00; and

(L) Credentialed private investigator..... \$150; and
- (3) For the following:
- (A) Replacement credential or commission photo identification card..... \$5.00;

(B) Duplicate wall-mounted license ..... \$10.00;

(C) Late renewal fee for a:

(i) Class A license ..... \$150;

- (ii) Class B license ..... \$150;
- (iii) Class C license ..... \$250;
- (iv) Class D license ..... \$75.00;
- (v) Class E license, any version..... \$150; and
- (vi) Class G license..... \$300; and

(D) Transfer fee for:

- (i) A credentialed private investigator ..... \$75.00; and
- (ii) An alarm systems agent, alarm systems apprentice, alarm systems technician, or alarm systems monitor credential .... \$20.00.

(b) Applicable state and national criminal background check fees are as set under the Arkansas State Criminal Records Act, § 12-12-1501 et seq., or by the Federal Bureau of Investigation.

(c) All fees under this section are nonrefundable.

**History.** Acts 2015, No. 393, § 58; Arkansas State Police” for “Director of the 2019, No. 910, § 5970. Department of Arkansas State Police” in

**Amendments.** The 2019 amendment (a). substituted “Director of the Division of

### 17-40-306. License or credential — Applicant qualifications.

(a) A person applying for a license or credential other than that for a commissioned security officer or commissioned school security officer shall:

- (1) Be at least eighteen (18) years of age at the time of application;
- (2) Not be suffering from habitual drunkenness or from narcotics addiction or dependence;
- (3) Not have been discharged from the United States Armed Forces under dishonorable conditions;
- (4) Be in compliance with any other reasonable qualifications that the Director of the Division of Arkansas State Police may set by rule;
- (5) Not have been adjudicated as mentally incompetent or have been involuntarily committed to a mental institution or mental health treatment facility; and
- (6) Not be a registered sex offender or be required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(b) An applicant who applies for a license to engage in the business of an investigations company or his or her manager shall have:

- (1) Two (2) consecutive years’ experience before the date of the application in the investigative field as an agent, employee, manager, or owner of an investigations company;
- (2) Two (2) years’ experience as a licensed bail bondsman and a baccalaureate degree from a four-year institution of higher education; or

(3) Satisfied other requirements as may be set by the director.

(c) An applicant who makes application to engage in the business of a security services contractor, private business, or his or her manager shall:



(1) Have two (2) consecutive years' experience before the date of application in the security services field as an agent, employee, manager, or owner of a security services contractor company; or

(2) Satisfy other requirements as may be set by the director.

(d)(1) Except as provided in subdivision (d)(2) of this section, the director shall not issue a license or credential nor renew an existing license or credential of a person who has been found guilty of or pleaded guilty or nolo contendere to one (1) or more of the following in any court in the State of Arkansas or to a comparable offense in another state or in a military or federal court for which a pardon has not been granted:

(A) A felony;

(B) A Class A misdemeanor involving theft, sexual offenses, violence, an element of dishonesty, or a crime against a person as determined by the Division of Arkansas State Police under subsection (e) of this section; or

(C) An attempted felony or solicitation or conspiracy to commit a felony that is classified as a Class A misdemeanor.

(2) An individual shall not be denied issuance of a license or credential or renewal of an existing license or credential if the individual by any court has been found guilty of or pleaded guilty or nolo contendere to any misdemeanor if the person was found guilty of or pleaded guilty or nolo contendere to the misdemeanor ten (10) or more years before the date of the application for issuance or renewal.

(3) For purposes of this subsection, the state and national criminal background check shall include a record of all offenses that have been previously sealed or expunged by any court.

(e) The Department of Arkansas State Police or the Division of Arkansas State Police shall promulgate rules within ninety (90) days of May 23, 2016, that determine the offenses under subdivision (d)(1)(B) of this section that constitute a Class A misdemeanor involving theft, sexual offenses, violence, an element of dishonesty, or a crime against a person.

**History.** Acts 1977, No. 429, § 14; 1979, No. 907, § 9; 1981, No. 792, § 7; A.S.A. 1947, § 71-2135; Acts 1993, No. 1219, § 10; 1995, No. 953, § 1; 2005, No. 2237, § 1; 2015, No. 393, § 60; 2016 (3rd Ex. Sess.), No. 10, §§ 2, 3; 2016 (3rd Ex. Sess.), No. 11, §§ 2, 3; 2019, No. 910, §§ 5971-5973.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a)(4); substituted "division" for "Department of Arkansas State Police" in (d)(1)(B); and substituted "Department of Arkansas State Police or the Division of Arkansas State Police" for "department" in (e).

### 17-40-307. License or credential — Application and examination.

(a) An application for a license or credential under this chapter shall be in the form prescribed by the Director of the Division of Arkansas State Police and shall include:

(1) The full name and business address of the applicant;

(2) The name under which the applicant intends to do business;

(3) A statement as to the general nature of the business and the business classification in which the applicant intends to engage;

(4) The full name and residence address of each of the applicant's partners, officers, directors, and managers if the applicant is an entity other than an individual;

(5) Two (2) recent passport-style photographs of the applicant, if the applicant is an individual, or of each officer and of each partner or shareholder who owns an interest of twenty-five percent (25%) or more in the applicant if the applicant is an entity;

(6) Two (2) classifiable sets of fingerprints of the applicant, if the applicant is an individual, or of each officer and of each partner or shareholder who owns an interest of twenty-five percent (25%) or more in the applicant if the applicant is an entity;

(7) A verified statement of the applicant's experience qualifications;

(8) A verified statement disclosing any record of arrests, pending criminal charges, or convictions of the applicant of a felony, Class A misdemeanor, a crime involving an act of violence, or any crime involving moral turpitude, including those that have been sealed or expunged; and

(9) Information that may be required by the director that would show that the applicant is honest, trustworthy, and of good character if the applicant is an individual.

(b) An application for a license or credential under this chapter shall include the Social Security number of the applicant.

(c) The director may require an applicant or his or her manager to demonstrate qualifications determined by the director by an examination or show proof of other qualifications as may be determined by the director.

(d)(1) Payment of the application fee prescribed by this chapter entitles the applicant or his or her manager to one (1) examination without further charge.

(2) If the person fails to pass the examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee, which shall be set by the director.

(e)(1)(A) Each first-time applicant and applicant for license or credential renewal shall apply to the Division of Arkansas State Police for a state and national criminal background check to be conducted by the division and the Federal Bureau of Investigation.

(B) Criminal history records from the Arkansas Crime Information Center shall be available to the director for the review of applicant qualification.

(2) The state and national criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints as required in subdivision (a)(6) of this section.

(3) The applicant shall sign a release of information to the director and shall be responsible for the payment of any fee associated with the state and national criminal background check.



(4) Upon completion of the state and national criminal background check, the division shall forward to the director all releasable information obtained concerning the applicant.

(f) The burden is on the applicant to provide information sufficient to allow the director to determine if the applicant is qualified to hold the license or credential.

**History.** Acts 1977, No. 429, § 15; 1979, No. 907, § 10; A.S.A. 1947, § 71-2136; Acts 1999, No. 1493, § 6; 2005, No. 2237, § 2; 2015, No. 393, § 61; 2019, No. 910, §§ 5974-5976.

**Amendments.** The 2019 amendment substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in

the introductory language in (a); in (e)(1)(A), substituted “Division of Arkansas State Police” for “Department” and substituted “division and the Federal Bureau of Investigation” for “department and the Federal Bureau of Investigation”; and substituted “division” for “department” in (e)(4).

### 17-40-308. License or credential — Insurance prerequisite.

(a) A Class B, Class C, or Class G license shall not be issued to an applicant under this chapter unless the applicant files with the Director of the Division of Arkansas State Police proof of a policy of continuing public liability insurance in a sum not less than five hundred thousand dollars (\$500,000), conditioned to compensate any person for damages, including, but not limited to, bodily injury caused by wrongful acts of the principal or its servants, officers, agents, and employees in the conduct of any business licensed by this chapter.

(b) A Class B or Class C license shall not be issued to an armored car company unless the applicant files with the director proof of a valid and continuing policy of armored car cargo insurance protecting customers’ valuables in a sum not less than five hundred thousand dollars (\$500,000).

(c)(1) All Class E licensees shall maintain in force at all times while licensed a public liability insurance policy, with minimum limits of liability of three hundred thousand dollars (\$300,000).

(2) All alarm systems companies that issue Underwriters Laboratories certificates for local mercantile, central station, or police connected alarms shall maintain in force at all times a public liability insurance policy in an amount of at least three hundred thousand dollars (\$300,000).

(3) Proof of public liability insurance shall be provided to the director at the time of application or renewal or upon request.

(4) This section does not pertain to alarm systems companies that do not sell, install, or service alarm systems.

**History.** Acts 1977, No. 429, § 32; 1979, No. 907, § 10; A.S.A. 1947, § 71-2136; Acts 1999, No. 1493, § 7; 2005, No. 2237, § 2; 2015, No. 393, § 62; 2019, No. 910, §§ 5974-5976.

**Amendments.** The 2019 amendment by No. 386 substituted “companies” for “businesses” in (c)(2) and (c)(4). The 2019 amendment by No. 910 substituted “Division of Arkansas State Po-

lice” for “Department of Arkansas State Police” in (a).

### 17-40-310. License and credential — Form.

A license or credential when issued shall be in the form prescribed by the Director of the Division of Arkansas State Police and shall include the:

- (1) Name of the licensee or credential holder;
- (2) Name under which the licensee or credential holder is to operate; and
- (3) License or credential number and date of expiration.

**History.** Acts 1977, No. 429, § 20; A.S.A. 1947, § 71-2141; Acts 2015, No. 393, § 64; 2019, No. 910, § 5978. substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in the introductory language.

**Amendments.** The 2019 amendment

### 17-40-312. License and credential — Termination.

The Director of the Division of Arkansas State Police shall prescribe by rule the procedure under which a license or credential issued under this chapter may be terminated by the licensee or credential holder.

**History.** Acts 1977, No. 429, § 23; A.S.A. 1947, § 71-2144; Acts 2015, No. 393, § 66; 2019, No. 910, § 5979. substituted “Division of Arkansas State Police” for “Department of Arkansas State Police”.

**Amendments.** The 2019 amendment

### 17-40-313. License and credential — Expiration and renewal.

(a)(1) A license or credential issued under this chapter shall expire two (2) years from the date of issuance.

(2) To renew an unexpired license or credential, the licensee or the credential holder shall apply for renewal on a form prescribed by the Director of the Division of Arkansas State Police and pay the renewal fee prescribed by this chapter.

(3) Upon approval of the application by the director, a renewal license or credential shall be issued.

(b)(1) A suspended license or credential is subject to expiration and may be renewed as provided in this chapter.

(2) However, renewal does not entitle the licensee or the credential holder, while the license or credential remains suspended and until it is reinstated, to engage in the licensed or credentialed activity.

(c) It is unlawful for a suspended licensee or credential holder or an employee of the suspended licensee or credential holder to operate while the license or credential is suspended.

(d) A license or credential that is not renewed within six (6) months after its expiration shall not be renewed thereafter.



(e) The holder of the license or credential that has been expired for more than six (6) months may obtain a new license or credential only on compliance with all of the provisions of this chapter relating to the issuance of an initial license or credential.

**History.** Acts 1977, No. 429, §§ 34, 35, 37; 1981, No. 792, §§ 17, 19; A.S.A. 1947, §§ 71-2155, 71-2156, 71-2158; Acts 2015, No. 393, § 67; 2019, No. 910, § 5980.

**Amendments.** The 2019 amendment substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" in (a)(2).

### **17-40-314. Managers.**

(a) The business of each licensee shall be operated under the direction and control of at least one (1) manager.

(b) A person shall not act as a manager of a licensee or private business until the person has:

(1) Demonstrated the person's qualifications by a written examination; and

(2) Made a satisfactory showing to the Director of the Division of Arkansas State Police that the person has the qualifications prescribed by this chapter.

(c) It is unlawful for an individual to make application to the director as manager or to serve as manager of an investigations company, security services contractor, private business, or alarm systems company unless the individual intends to maintain a supervisory position on a daily basis for the investigations company, security services contractor, private business, or alarm systems company.

(d)(1) If a manager who has qualified as provided in this section ceases to be manager for any reason, the licensee shall notify the director in writing within fourteen (14) days from the cessation of the manager.

(2) If notice under subdivision (d)(1) of this section is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the director and pending the qualification of another manager.

(3) If the licensee fails to provide the notice under subdivision (d)(1) of this section to the director within the fourteen-day period, the licensee's license may be subject to suspension, a fine, or revocation.

**History.** Acts 1977, No. 429, §§ 13, 18; 1981, No. 792, § 10; 1983, No. 899, § 7; A.S.A. 1947, §§ 71-2134, 71-2139; Acts 1989, No. 926, § 10; 2015, No. 393, § 68; 2019, No. 386, § 22; 2019, No. 910, § 5981.

by No. 386, in (c), inserted "private business".

The 2019 amendment by No. 910 substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" in (b)(2).

**Amendments.** The 2019 amendment

**17-40-315. Duties of licensee or credential holder.**

(a) Each licensee or credential holder shall maintain a record containing the information relative to his or her employees as may be prescribed by the Director of the Division of Arkansas State Police.

(b) At all times a licensee or credential holder shall be legally responsible for the good conduct in the business of each employee, including the licensee's manager.

(c) A licensee or credential holder finding a violation of this chapter shall report the violation to the local authority and to the director.

**History.** Acts 1977, No. 429, §§ 24, 26; A.S.A. 1947, §§ 71-2145, 71-2147; Acts 1999, No. 1493, § 9; 2015, No. 393, § 69; 2019, No. 910, § 5982.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a).

**Amendments.** The 2019 amendment

**17-40-316. Licenses and credentials — Change of address, telephone number, email address, name, or officers or partners.**

(a) A licensee or credential holder shall notify the Director of the Division of Arkansas State Police within fourteen (14) days after a change of the licensee's or credential holder's name, address, telephone number, email address, or officer or partner.

(b) A licensee or manager shall notify the director within fourteen (14) days after a change in the credentialed person's name, address, telephone number, or email address.

**History.** Acts 1977, No. 429, § 21; A.S.A. 1947, § 71-2142; Acts 2015, No. 393, § 70; 2019, No. 910, § 5983.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a).

**Amendments.** The 2019 amendment

**17-40-317. Licensees and credential holders — Windup period.**

When the individual on the basis of whose qualifications a license or credential under this chapter has been obtained ceases to be connected with the business for which a license or credential under this chapter is required, the business may be carried on for a temporary period under such terms and conditions as the Director of the Division of Arkansas State Police shall provide by rule.

**History.** Acts 1977, No. 429, § 18; A.S.A. 1947, § 71-2139; Acts 2015, No. 393, § 71; 2019, No. 910, § 5984.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police".

**Amendments.** The 2019 amendment

**17-40-318. Training requirements for alarm systems company.**

The Director of the Division of Arkansas State Police shall promulgate rules regarding the training requirements for alarm systems



companies, alarm systems apprentices, alarm systems monitors, alarm systems technicians, and alarm systems agents.

**History.** Acts 1989, No. 926, § 6; 1999, No. 1493, § 10; 2001, No. 1474, § 3; 2015, No. 393, § 72; 2019, No. 910, § 5985. substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police”.

**Amendments.** The 2019 amendment

### **17-40-325. License or credential application.**

(a) A person who is employed as a private investigator, a manager, a private security officer, an alarm systems technician, an alarm systems monitor, an alarm systems apprentice, or an alarm systems agent and who is required to be licensed or credentialed under this chapter shall submit a properly completed application for the license or credential to the Director of the Division of Arkansas State Police within fourteen (14) calendar days after the commencement of employment.

(b) While the application for the license or credential is pending, an applicant may perform the services of a private investigator, a manager, a private security officer, an alarm systems technician, an alarm systems monitor, an alarm systems apprentice, or an alarm systems agent if the applicant is under the supervision of a person who holds a license or credential for which the applicant applied.

**History.** Acts 1977, No. 429, § 27; 1979, No. 907, § 16; 1983, No. 899, § 8; A.S.A. 1947, § 71-2148; Acts 1989, No. 926, §§ 11, 14; 2005, No. 2237, § 9; 2015, No. 393, § 73; 2016 (3rd Ex. Sess.), No. 10, § 4; 2016 (3rd Ex. Sess.), No. 11, § 4; 2019, No. 910, § 5986.

**Amendments.** The 2019 amendment substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in (a).

### **17-40-329. Issuance of credential photo identification card — Transfer and fee — Cancellation.**

(a)(1) A credential photo identification card of a size, a design, and content as may be determined by the Director of the Division of Arkansas State Police shall be issued by the Division of Arkansas State Police under this chapter.

(2) The credential photo identification card shall display:

- (A) The name of the credential holder;
- (B) A photograph of the credential holder;
- (C) A credential number and date of expiration; and
- (D) The name of the entity by whom the credential holder is employed.

(b) The credential of each person, private security officer, alarm systems technician, alarm systems monitor, alarm systems apprentice, credentialed private investigator, or alarm systems agent expires two (2) years from the date of issuance and is valid irrespective of the credential holder’s employer.

(c) When an individual to whom a credential has been issued terminates his or her position, he or she shall return the credential photo identification card to the licensee immediately upon termination.

(d) When an individual to whom a credential has been issued changes employment from one licensee to another licensee, the new manager shall notify the director immediately in writing and pay a transfer fee.

(e) Within seven (7) days after the licensee has received the identification card of a credentialed employee who has terminated his or her position, the licensee shall mail or deliver the credential photo identification card to the director for cancellation, along with a letter from the licensee stating:

(1) The date the credentialed employee terminated his or her position;

(2) That the licensee received the credential photo identification card of the credentialed employee who has terminated his or her position; and

(3) The cause for which or the conditions under which the credentialed employee terminated his or her position.

**History.** Acts 1977, No. 429, §§ 29, 30; 1979, No. 907, § 18; 1981, No. 792, § 13; 1983, No. 899, § 9; A.S.A. 1947, §§ 71-2150, 71-2151; Acts 1989, No. 926, § 14; 1995, No. 430, § 3; 1999, No. 1493, § 13; 2005, No. 2237, § 10; 2015, No. 393, § 77; 2019, No. 910, § 5987.

**Amendments.** The 2019 amendment, in (a)(1), substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" and substituted "Division of Arkansas State Police" for "Department of Arkansas State Police".

### **17-40-330. Authority to issue commission to carry a firearm.**

The Director of the Division of Arkansas State Police may determine the qualifications for and issue an authorization to carry a firearm in the form of a commission to a qualified security officer or qualified school security officer that shall be held during the course of his or her employment.

**History.** Acts 2015, No. 393, § 78; 2019, No. 910, § 5988.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police".

**Amendments.** The 2019 amendment

### **17-40-337. Commission — Applicant qualifications.**

(a) A commission as a commissioned security officer or a commissioned school security officer shall not be issued under this chapter to an individual who:

(1) Is under twenty-one (21) years of age;

(2) Has been found guilty of or who has pleaded guilty or nolo contendere to any of the following offenses, whether or not those offenses have been sealed or expunged:

(A) An offense listed under § 17-40-306(d);

(B) A crime involving the use of a firearm; or



(C) A crime involving the use of alcohol while in possession of a firearm;

(3) Has committed an act that would be grounds for suspension or revocation under this chapter;

(4) Does not meet the qualifications for a commission as determined by the Director of the Division of Arkansas State Police;

(5) May not lawfully possess a firearm;

(6)(A) Has not successfully completed a state and national criminal background check to be conducted by the Division of Arkansas State Police and the Federal Bureau of Investigation.

(B) Criminal history records from the Arkansas Crime Information Center shall be available to the director for review of the applicant's qualifications.

(C) The state and national criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints.

(D) The individual applicant shall sign a release of information to the director and shall make payment of any fee associated with the state and national criminal background check;

(7) Has been adjudicated as mentally incompetent or has been involuntarily committed to a mental institution or mental health treatment facility;

(8) Is a registered sex offender or required to be registered as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.;

(9) Is suffering from habitual drunkenness or from narcotics addiction or dependence;

(10) Has been discharged from the United States Armed Forces under dishonorable conditions; or

(11) Is not in compliance with any other reasonable qualification that the director may set by rule.

(b) The director shall not issue a commission as a commissioned security officer or as a commissioned school security officer to an applicant employed by a licensee or the security department of a private business or school unless the applicant submits evidence satisfactory to the director that he or she meets all qualifications established by this chapter and by the rules of the director.

**History.** Acts 1977, No. 429, §§ 19, 36; A.S.A. 1947, §§ 71-2140, 71-2157; Acts 2005, No. 2237, § 4; 2015, No. 393, § 81; 2016 (3rd Ex. Sess.), No. 10, § 5; 2016 (3rd Ex. Sess.), No. 11, § 5; 2019, No. 910, §§ 5989, 5990.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a)(4); and substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" in (a)(6)(A).

## 17-40-339. Commission — Notice to law enforcement.

(a) The Director of the Division of Arkansas State Police shall notify the sheriff of the county and the chief of police of the city, if applicable,

in which the applicant resides of the application for a commission to be a commissioned security officer or a commissioned school security officer.

(b) A sheriff or chief of police who wishes to object to the issuance of a commission as a commissioned security officer or a commissioned school security officer to a particular applicant may do so by notifying the director of his or her objection with specific reasons within thirty (30) days after the date of receipt of notification under this section.

(c) If a sheriff or chief of police who is given notice under this section files an objection and the director finds good cause to consider the objection to have merit, the director may deny the application for the commission.

**History.** Acts 1977, No. 429, § 19; substituted “Division of Arkansas State A.S.A. 1947, § 71-2140; Acts 2015, No. Police” for “Department of Arkansas State 393, § 83; 2019, No. 910, § 5991. Police” in (a).

**Amendments.** The 2019 amendment

### 17-40-340. Commission — Issuance of identification card.

Each commission as a commissioned security officer or a commissioned school security officer issued under this chapter shall be in the form of a commission photo identification card designed by the Director of the Division of Arkansas State Police that shall identify:

- (1) The commission holder;
- (2) The security department of a private business or school by whom the commission holder is employed;
- (3) A photograph of the credential holder; and
- (4) A credential number and date of expiration.

**History.** Acts 1977, No. 429, § 19; 1979, No. 907, § 13; 1981, No. 792, § 11; A.S.A. 1947, § 71-2140; Acts 1999, No. 1493, § 14; 2015, No. 393, § 84; 2019, No. 910, § 5992.

**Amendments.** The 2019 amendment substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in the introductory language.

### 17-40-342. Commission — Termination.

If the holder of a commission terminates his or her employment with the licensee or the security department of a private business or school, he or she shall return the commission photo identification card to the Director of the Division of Arkansas State Police within seven (7) days of the date of termination of the employment.

**History.** Acts 1977, No. 429, § 19; 1981, No. 792, § 11; A.S.A. 1947, § 71-2140; Acts 1999, No. 1493, § 16; 2015, No. 393, § 85; 2019, No. 910, § 5993.

**Amendments.** The 2019 amendment substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police”.



**17-40-344. Commission — Denial, suspension, or revocation.**

The Director of the Division of Arkansas State Police may deny, suspend, or revoke a commission as a commissioned school security officer or a commission as a commissioned security officer if the applicant for a commission or the commission holder is indicted or arrested for one (1) of the following offenses or a comparable offense in another state:

- (1) A felony;
- (2) A Class A misdemeanor;
- (3) A crime involving an act of violence;
- (4) A crime involving the use of a firearm;
- (5) A crime involving the use of alcohol or drugs while in possession of a firearm;
- (6) A crime that results in the person's disqualifying himself or herself from legally possessing a firearm under state or federal law; or
- (7) A crime involving moral turpitude.

**History.** Acts 1977, No. 429, § 19; 1979, No. 907, § 14; A.S.A. 1947, § 71-2140; Acts 1999, No. 1493, § 17; 2005, No. 2237, § 5; 2015, No. 393, § 87; 2019, No. 910, § 5994.

**Amendments.** The 2019 amendment substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language.

**17-40-349. Suspension for nonpayment of child support.**

(a) The Director of the Division of Arkansas State Police shall suspend a license, credential, or commission issued under this chapter if the Division of Arkansas State Police is notified by the Office of Child Support Enforcement that the licensee, credential holder, or commission holder has not paid his or her required child support.

(b) The licensee, credential holder, or commission holder shall be sent notice of the suspension under this section.

(c) The licensee, credential holder, or commission holder may be reinstated after:

- (1) Full payment of the amount due through the office; and
- (2) Notification from the office to the division.

**History.** Acts 2015, No. 393, § 88; 2019, No. 910, §§ 5995, 5996.

**Amendments.** The 2019 amendment, in (a), substituted "Director of the Division of Arkansas State Police" for "Direc-

tor of the Department of Arkansas State Police" and substituted "Division of Arkansas State Police" for "Department of Arkansas State Police"; and substituted "division" for "department" in (c)(2).

**17-40-350. Grounds for disciplinary action.**

(a) The Director of the Division of Arkansas State Police may suspend or revoke a license, credential, or commission or issue a fine in an amount not to exceed one thousand dollars (\$1,000) for each violation of this chapter, or both, or the director may deny an applica-

tion for a license, credential, or commission, or renewal thereof, on proof that the applicant, licensee, commission holder, or credential holder:

(1) Violated a provision of this chapter or violated a rule promulgated under this chapter;

(2) No longer meets the qualifications for the license, credential, or commission under this chapter; or

(3) Has been arrested for an offense that if convicted would result in disqualification for the license, credential, or commission under this chapter.

(b) The director may summarily suspend for no more than sixty (60) days a license, credential, or commission if it is shown that the health, safety, or welfare of the public is endangered.

(c)(1) The director may suspend a license, credential, or commission of a person who is found guilty of or pleaded guilty or nolo contendere to a felony, a Class A misdemeanor, a crime involving an act of violence, or a crime involving an act of moral turpitude in this state or a comparable offense in another state or territory of the United States or in any foreign country.

(2) If the licensee is a corporation, proof of actual participation or actual knowledge on the part of the licensee or on the part of an employee of the licensee who is also a credential holder or commission holder is required.

(3) If the hearing on a license, credential, or commission that has been summarily suspended is adjourned at the request of the licensee, credential holder, or commission holder, the suspension may be continued for the additional period of the adjournment.

**History.** Acts 1977, No. 429, § 11; 1979, No. 907, §§ 5-8; 1981, No. 792, §§ 4-6; 1983, No. 899, §§ 5, 6; A.S.A. 1947, § 71-2132; Acts 2005, No. 2237, §§ 6, 12; 2015, No. 393, § 89; 2019, No. 910, § 5997.

**Amendments.** The 2019 amendment substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in the introductory language in (a).

### 17-40-351. Procedure for denial.

(a) The Director of the Division of Arkansas State Police may deny the issuance of a license, credential, or commission under this chapter.

(b) The director shall notify the applicant of the director's decision in writing.

(c) The applicant may appeal the decision to the director, provided he or she perfects the appeal within ten (10) days of the receipt of his or her notice of denial.

**History.** Acts 1977, No. 429, § 11; 1979, No. 907, §§ 5-8; 1981, No. 792, § 6; A.S.A. 1947, § 71-2132; Acts 2015, No. 393, § 90; 2019, No. 910, § 5998.

substituted "Director of the Division of Arkansas State Police" for "Director of the Department of Arkansas State Police" in (a).

**Amendments.** The 2019 amendment



**17-40-352. License, credential, or commission — Record of denial, revocation, or suspension.**

- (a) If the Director of the Division of Arkansas State Police denies the application or suspends or revokes a license, credential, or commission, or if a fine is imposed, the director’s decision shall be in writing.
- (b) The notice of the decision shall be mailed to the applicant, licensee, credential holder, or commission holder within sixty (60) days of the director’s decision.

**History.** Acts 1977, No. 429, § 11; substituted “Director of the Division of 1979, No. 907, §§ 5-8; A.S.A. 1947, § 71- Arkansas State Police” for “Director of the 2132; Acts 2015, No. 393, § 91; 2019, No. Department of Arkansas State Police” in 910, § 5999. (a).

**Amendments.** The 2019 amendment

**17-40-353. Reciprocity — Private investigator.**

- A person who is licensed or credentialed under the laws of another state or territory of the United States as a private investigator may apply for a credential as a private investigator in this state upon production of satisfactory proof that:
- (1) The other state or territory grants similar reciprocity to credential holders of this state that coincides with the records on private investigator credential reciprocity maintained by the Division of Arkansas State Police;
  - (2) The requirements for licensing or credentialing in the particular state or territory were at the date of the applicant’s most recent licensing or credentialing substantially equivalent to the requirements now in effect in this state;
  - (3) The applicant meets all the qualifications for the credential as set out in this chapter, including the successful completion of a state and national criminal background check; and
  - (4) The applicant meets other reasonable qualifications as may be adopted by the Director of the Division of Arkansas State Police.

**History.** Acts 1993, No. 940, § 1; 2015, substituted “Department of Arkansas State Police” for “Department of Arkansas State No. 393, § 92; 2019, No. 910, §§ 6000, Police” in (1); and substituted “Director of the Division of Arkansas State Police” for 6001. “Director of the Department of Arkansas

**Amendments.** The 2019 amendment substituted “Division of Arkansas State State Police” in (4).

**17-40-354. Fingerprint cards.**

- (a) The Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation may retain the fingerprints collected for each individual who is fingerprinted under this chapter.
- (b) The Director of the Division of Arkansas State Police may enroll a person issued a license, credential, or commission under this chapter in a program that electronically notifies law enforcement if the person has been arrested.

**History.** Acts 2005, No. 2237, § 13; 2015, No. 393, § 93; 2019, No. 910, § 6002.

**Amendments.** The 2019 amendment substituted “Identification Bureau of the Division of Arkansas State Police” for

“Identification Bureau of the Department of Arkansas State Police” in (a); and substituted “Director of the Division of Arkansas State Police” for “Director of the Department of Arkansas State Police” in (b).

## **17-40-355. Appeal of denial, suspension, or revocation — Venue.**

### **CASE NOTES**

#### **In General.**

Circuit court erred in concluding that applicant’s petition for review under the Administrative Procedures Act was barred by sovereign immunity after the applicant was denied a private investigator license by administrative decision of the director of the Arkansas State Police. The petition for review only sought review

of an administrative decision and did not state a cause of action against the director, who acted in a quasi-judicial capacity and had no vested interest in the outcome of the appeal other than whether the decision to deny the application was upheld. *Hackie v. Bryant*, 2019 Ark. 228, 577 S.W.3d 10 (2019).

## **17-40-356. Advertising.**

Any time that a licensee is engaged in an activity regulated under this chapter, the licensee shall display the company name and license number or a statement referring to a website or toll-free number to obtain licensing information on all advertising and marketing materials, including without limitation letterhead, printed advertisements, electronic media advertisements, decals, and yard signs.

**History.** Acts 2021, No. 61, § 1.

## **CHAPTER 42**

### **REAL ESTATE LICENSE LAW**

#### **SUBCHAPTER.**

1. REAL ESTATE LICENSE LAW — GENERAL PROVISIONS.
2. ARKANSAS REAL ESTATE COMMISSION.
3. LICENSES.
4. APPLICABILITY — REAL ESTATE RECOVERY FUND — DISCIPLINARY ACTIONS.
5. RENEWAL OF LICENSES.
7. INTERFERENCE WITH REAL ESTATE LICENSEE RELATIONSHIPS.

#### **SUBCHAPTER 1 — REAL ESTATE LICENSE LAW — GENERAL PROVISIONS**

#### **SECTION.**

17-42-108. Disclosure requirement.

## **17-42-108. Disclosure requirement.**

(a)(1) In every real estate transaction involving a licensee, the licensee shall clearly disclose to all parties or to their agents which party or parties he or she is representing.



(2) A licensee may represent more than one (1) party to a real estate transaction pursuant to and subject to rules of the Arkansas Real Estate Commission.

(b) The timing, method, and other requirements of such a disclosure shall be established by the commission, and the commission shall also determine the consequences of failure to make disclosure in accordance with such requirements.

**History.** Acts 1993, No. 690, § 16; deleted “regulation and” preceding “rules”  
1995, No. 399, § 1; 2019, No. 315, § 1458. in (a)(2).

**Amendments.** The 2019 amendment

## SUBCHAPTER 2 — ARKANSAS REAL ESTATE COMMISSION

### SECTION.

17-42-202. Organization — Employees.

17-42-203. Powers and duties.

### 17-42-202. Organization — Employees.

(a)(1) Immediately upon the qualification of the member appointed in each year, the Arkansas Real Estate Commission shall meet and organize by selecting from its members a chair and vice chair.

(2) A simple majority shall constitute a quorum.

(3) The commission shall meet as often as necessary or desirable in order to conduct its business.

(b)(1) The commission shall employ an executive director and such staff as may be necessary to carry out the provisions of this chapter and to put into effect the rules the commission may promulgate.

(2) The Executive Director of the Arkansas Real Estate Commission shall have such duties, authority, and responsibility as the commission may designate, or as necessarily implied herein.

(3) The commission shall fix the salaries of employees.

**History.** Acts 1993, No. 690, §§ 5, 6; deleted “and regulations” following “rules”  
2019, No. 315, § 1459. in (b)(1).

**Amendments.** The 2019 amendment

### 17-42-203. Powers and duties.

(a) The Arkansas Real Estate Commission may do all things necessary and convenient for carrying into effect the provisions of this chapter and may from time to time promulgate necessary or desirable rules.

(b) The commission shall have power to administer oaths.

(c) The commission shall adopt a seal with such design as it may prescribe engraved thereon.

(d) Copies of all records and papers in the office of the commission, certified and authenticated by the commission, shall be received in evidence in all courts equally and with like effect as the originals.

(e) The commission:

(1) Shall maintain in writing or in electronic format a list of the names and addresses of all active licensees licensed by it under the provisions of this chapter; and

(2) May publish in writing or in electronic format the names of all persons who have been sanctioned under § 17-42-312 or by consent order, together with other information relative to the enforcement of the provisions of this chapter as it may deem of interest to the public.

(f) The commission may conduct or assist in conducting real estate institutes and seminars and incur and pay the reasonable and necessary expenses in connection therewith. The institutes or seminars shall be open to all licensees.

(g) The commission is authorized to make reasonable charges for materials provided by the commission and for services performed in connection with providing materials.

(h)(1) The commission may establish reasonable procedures that shall be used by licensees participating in real estate auctions. ^

(2) For the protection of the public, licensees who participate in real estate auctions also shall be required to be licensed by the Auctioneer's Licensing Board.

(3) Notwithstanding subdivision (h)(2) of this section, the commission shall have sole jurisdiction over licensees and their actions when participating in real estate auctions.

**History.** Acts 1993, No. 690, § 5; 2005, No. 1173, § 1; 2007, No. 263, § 3; 2019, No. 315, § 1460; 2019, No. 386, § 23.

**Amendments.** The 2019 amendment by No. 315 deleted "and regulations" at the end of (a).

The 2019 amendment by No. 386 deleted "real estate" preceding "licensees"

throughout (h); in (h)(1), substituted "may" for "is authorized to", inserted "participating" following "licensees", and deleted "conducting" following "in"; substituted "participate in" for "manage and conduct" in (h)(2); and substituted "participating in" for "managing or conduction" in (h)(3).

### SUBCHAPTER 3 — LICENSES

#### SECTION.

17-42-303. Education and experience requirements.

17-42-305. Nonresident license requirements.

17-42-311. Violations.

#### SECTION.

17-42-312. Investigation of complaint — Citations — Penalties.

17-42-315. Criminal background check.

17-42-316. Agency relationship and duties generally.

### 17-42-303. Education and experience requirements.

(a) The Arkansas Real Estate Commission shall establish education requirements for licensure, including the standards and procedures for approval of education programs, subject to the following conditions:

(1)(A) The most education hours required of an applicant for a broker's license shall not exceed one hundred twenty (120) hours within the thirty-six (36) months immediately preceding the date of application.



(B) Effective on May 1, 2014, an applicant for a broker's license shall complete at least forty-five (45) of the required education hours in a course developed by the commission; and

(2) The maximum number of hours required of an applicant for a salesperson's license shall not exceed ninety (90) hours, at least thirty (30) hours of which shall be in the basic principles of real estate.

(b)(1) The commission shall establish the experience requirement for licensure for an applicant for a broker's license subject to the condition of serving an active, bona fide apprenticeship by holding a valid salesperson's license issued by the commission or by holding a valid salesperson's license or broker's license issued by the appropriate licensing agency of another state for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application.

(2) However, the commission may waive the experience requirement for a real estate broker applicant who has held an active real estate broker's license for a period of not less than eighteen (18) months or who has experience acceptable to the commission in a field considered real estate-related for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application.

(c)(1) The commission shall establish a post-licensure education requirement for individuals in their first year of licensure as salespersons or brokers.

(2) The commission shall not require more than thirty (30) classroom hours of post-licensure education hours.

**History.** Acts 1993, No. 690, § 10; 1995, No. 729, § 1; 2001, No. 748, § 1; 2007, No. 263, § 5; 2013, No. 281, § 1; 2019, No. 386, § 24. **Amendments.** The 2019 amendment deleted "real estate" preceding "salesperson's" twice in (b)(1).

### **17-42-305. Nonresident license requirements.**

(a) In order to be licensed in Arkansas a nonresident must:

(1) Either:

(A) Meet the requirements of § 17-42-302; or

(B) Show satisfactory proof of current active licensure in the applicant's resident jurisdiction, which must be a jurisdiction that offers Arkansas licensees opportunities for licensure substantially comparable to those offered to that jurisdiction's licensees by this chapter;

(2) Pay any required fees;

(3) Sign a statement that the applicant has read this chapter and rules and agrees to abide by its provisions in all real estate activity;

(4)(A) Affiliate with a resident or nonresident principal broker licensed by the Arkansas Real Estate Commission, if a salesperson or associate broker.

(B) If a nonresident licensee terminates the affiliation with a principal broker licensed by the commission, the license of the

nonresident shall automatically be terminated until the nonresident places the license on inactive status or affiliates with another broker licensed by the commission;

(5)(A) Cause the licensing body of the applicant's resident jurisdiction to furnish to the commission a certification of licensure and copies of the records of any disciplinary actions taken against the applicant's license in that or other jurisdictions.

(B) Disciplinary action by any other lawful licensing authority may be grounds for denial of a license to a nonresident or for suspension or revocation of a license issued to a nonresident or for other appropriate disciplinary action authorized by this chapter;

(6)(A) File with the Executive Director of the Arkansas Real Estate Commission a designation in writing that appoints the executive director to act as the licensee's agent upon whom all judicial and other process or legal notices directed to the licensee may be served.

(B) Service upon the executive director shall be equivalent to personal service upon the licensee.

(C) Copies of the appointment certified by the executive director shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the originals thereof might be admitted.

(D) In such a written designation, the licensee shall agree that any lawful process against the licensee which is served upon the executive director shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this jurisdiction.

(E) The executive director shall mail a copy of any such process or notice by certified mail to the last known business address of the licensee; and

(7)(A) Agree in writing to cooperate with any investigation initiated by the commission by promptly supplying any documents the commission may request and by personally appearing at the commission's offices or such other location in this state as the commission may request.

(B) If notice is sent by certified mail to the last known business address of a nonresident licensee directing the licensee to produce documents or to appear for an interview and the licensee fails to comply with that request, the commission may impose on the nonresident licensee any disciplinary sanction permitted by this chapter.

(b) The commission in its discretion may enter into written agreements with similar licensing authorities of other jurisdictions as may be necessitated by the laws of those jurisdictions to assure for Arkansas licensees nonresident licensure opportunities comparable to those afforded to nonresidents by this chapter.

(c) The commission may deny licensure under subdivision (a)(1)(B) of this section to an applicant whose resident licensure is in a jurisdiction which the commission deems not to have educational or experience requirements at least equal to those of Arkansas.



**History.** Acts 1993, No. 690, § 11; substituted “rules” for “regulations” in 2019, No. 315, § 1461. (a)(3).

**Amendments.** The 2019 amendment

### **17-42-311. Violations.**

(a) The following acts, conduct, or practices are prohibited, and any licensee found guilty shall be subject to disciplinary action as provided in § 17-42-312:

(1) Obtaining a license by means of fraud, misrepresentation, or concealment;

(2) Violating any of the provisions of this chapter or any rules adopted under this chapter or any order issued under this chapter;

(3) Being convicted of or pleading guilty or nolo contendere to a felony listed under § 17-3-102 or a crime involving violence, fraud, dishonesty, untruthfulness, or untrustworthiness regardless of whether the imposition of sentence has been deferred or suspended;

(4) Making any substantial misrepresentation;

(5) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication, or distribution of false statements, descriptions, or promises of such character as to reasonably induce, persuade, or influence any person to act thereon;

(6) Failing within a reasonable time to account for or to remit any moneys coming into his or her possession which belong to others;

(7) Committing any act involving violence, fraud, dishonesty, untruthfulness, or untrustworthiness;

(8) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom he or she acts or accepting a commission or valuable consideration for the performance of any of the acts specified in this chapter from any person except the licensed principal broker under whom he or she is licensed;

(9) Acting as a broker or salesperson while not licensed with a principal broker, representing or attempting to represent a broker other than the principal broker with whom he or she is affiliated without the express knowledge and consent of the principal broker, or representing himself or herself as a salesperson or having a contractual relationship similar to that of a salesperson with anyone other than a licensed principal broker;

(10) Advertising in a false, misleading, or deceptive manner;

(11) Being unworthy or incompetent to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public;

(12) Paying a commission or valuable consideration to any person for acts or services performed in violation of this chapter, including paying a commission or other valuable consideration to an unlicensed person for participation in a real estate auction; and

(13) Any other conduct, whether of the same or a different character from that specified in this section, which constitutes improper, fraudulent, or dishonest dealing.

(b) Any license obtained through mistake or inadvertence shall be subject to revocation.

(c) A licensee whose license is revoked pursuant to this section shall be eligible to apply for a new license after the expiration of two (2) years from the date of revocation.

**History.** Acts 1993, No. 690, § 17; 2005, No. 657, § 3; 2007, No. 263, § 7; 2019, No. 315, § 1462; 2019, No. 990, § 44.

**Amendments.** The 2019 amendment by No. 315 deleted “or regulations” following “rules” in (a)(2).

The 2019 amendment by No. 990, in (a)(2), deleted “or regulations” following “rules” and substituted “under” for “pursuant to”; in (a)(3), inserted “listed under § 17-3-102” and substituted “violence” for “moral turpitude”; and substituted “violence” for “moral turpitude” in (a)(7).

### 17-42-312. Investigation of complaint — Citations — Penalties.

(a)(1) The Arkansas Real Estate Commission may, on its own motion, and shall, upon the verified complaint in writing of any person, provided that the complaint and any evidence, documentary or otherwise, presented in connection therewith shall make out a prima facie case, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker or real estate salesperson regardless of whether the transaction was for his or her own account or in his or her capacity as a broker or salesperson.

(2) If the complaint fails to state a prima facie case or if, after investigation, the Executive Director of the Arkansas Real Estate Commission determines that there is insufficient proof of a violation of this chapter, the executive director shall dismiss the complaint.

(3) If, however, the executive director determines that there is sufficient proof of a violation of this chapter, the person shall be notified of the charges against him or her and ordered to appear for a hearing.

(4) If a person violates this chapter, the commission may impose any one (1) or more of the following sanctions or requirements:

(A) Suspension, revocation, or denial of his or her license or the renewal thereof;

(B) A penalty of not more than one thousand dollars (\$1,000) for each violation;

(C) Completion of appropriate educational programs or courses;

(D) Successful completion of an appropriate licensing examination;

(E) Conditions or restrictions upon the person’s license or practice; or

(F) Payment of restitution, damages, or other penalties appropriate to the circumstances of the case that would:

(i) Achieve the desired disciplinary purpose;

(ii) Compensate or reimburse an injured party or the commission; or

(iii) Promote the regulation of the real estate profession.

(b) The commission is authorized to file suit in Pulaski County Circuit Court or the circuit court of the county where the defendant



resides or does business to collect a penalty assessed under this chapter if the penalty is not paid as ordered by the commission or the executive director.

(c) The commission may suspend the imposition of any sanctions imposed upon appropriate terms and conditions.

(d)(1) In lieu of the procedure contained in subdivisions (a)(1)-(3) of this section, the executive director may issue a citation imposing:

(A) A penalty of not more than one hundred dollars (\$100) to a broker or salesperson who:

(i) Fails to complete annual education requirements; or

(ii) Fails to complete post-licensure education requirements by the established deadline; or

(B) A penalty of not more than two hundred fifty dollars (\$250) to a broker, salesperson, or the supervising broker of a broker or salesperson if a broker or salesperson:

(i) Performs activities that require an active real estate license while his or her license is expired; or

(ii) Advertises, publishes, or otherwise distributes information about real property or real estate brokerage business or activities in violation of this chapter or rules adopted under this chapter.

(2) The citation shall include:

(A) The name, title, mailing address on file with the commission, and real estate license number of the licensee;

(B) The specific violation and related statute or rule;

(C) The time and date the citation is issued;

(D) The amount of the penalty;

(E) The deadline of thirty (30) days from issuance of the citation and procedure to either:

(i) Pay the citation without further penalty; or

(ii) Dispute the citation;

(F) A statement that the amount of the penalty and the findings of the executive director as to the facts are considered accurate, conclusive, finally adjudicated, and nonappealable if a verified written complaint contesting the citation is not filed within thirty (30) days of the citation's issuance; and

(G) A signature line for the licensee to accept the penalty without filing a written dispute.

(3) A licensee who is issued a citation under this subsection shall within thirty (30) days of the issuance of the citation:

(A) Accept the conditions of the citation by signing and returning the citation to the commission accompanied by the penalty payment; or

(B) File a verified written complaint under this section contesting the citation.

(4) The commission may treat the failure to respond within thirty (30) days of the issuance of the citation as a violation of this chapter punishable by the penalties provided in subsection (a) of this section.

(5)(A) If a licensee does not dispute the citation or request a hearing under § 17-42-314, the findings contained in the citation are deemed accurate, conclusive, finally adjudicated, and nonappealable.

(B) If a licensee disputes the citation by timely filing a verified written complaint with the commission, the licensee shall be provided a hearing before the commission under § 17-42-314.

(6) The commission may modify or vacate a citation issued under this subsection with or without a hearing.

**History.** Acts 1993, No. 690, § 17; 2013, No. 112, § 1; 2017, No. 890, § 4; 2019, No. 315, § 1463.

**Amendments.** The 2019 amendment deleted “regulation” following “statute” in (d)(2)(B).

### **17-42-315. Criminal background check.**

(a)(1) The Arkansas Real Estate Commission may require each original applicant for a license issued by the commission to apply to the Identification Bureau of the Division of Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

(2)(A) An applicant may sit for the licensing examination required by § 17-42-302(a)(4) while awaiting the results of a background check prescribed by this section.

(B) A license shall not be issued to an applicant until the commission receives and approves the state and federal criminal background checks.

(b) The check shall conform to applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the commission and shall be responsible for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward to the commission all releasable information obtained concerning the applicant.

(e) At the conclusion of any background check required by this section, the Identification Bureau of the Division of Arkansas State Police shall be allowed to retain the fingerprint card of the applicant until notified by the commission that the person is no longer licensed.

(f) Except as provided in subsection (g) of this section, a person shall not receive or hold a license issued by the commission if the person has been convicted of or pleaded guilty or nolo contendere to a felony listed under § 17-3-102 or a crime involving violence, fraud, dishonesty, untruthfulness, or untrustworthiness.

(g)(1) The provisions of subsection (f) of this section may be waived by the commission upon the request of:

(A) An affected applicant for licensure; or

(B) The person holding a license subject to sanctions.



(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and
- (G) Other evidence demonstrating that the applicant does not pose a threat to the public.

(h)(1) Any information received by the commission from the Identification Bureau of the Division of Arkansas State Police or the Federal Bureau of Investigation pursuant to this section shall not be available for examination except by the affected applicant for licensure or his or her authorized representative, or by the person whose license is subject to sanctions or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Division of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or the person whose license is subject to sanctions shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check.

(k) The commission may adopt rules to fully implement the provisions of this section.

**History.** Acts 2005, No. 657, § 4; 2007, No. 53, § 2; 2007, No. 263, § 8; 2017, No. 252, § 8; 2019, No. 315, § 1464; 2019, No. 990, § 45.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (k).

The 2019 amendment by No. 990, in (f), inserted “listed under § 17-3-102” and substituted “violence” for “moral turpitude”.

## 17-42-316. Agency relationship and duties generally.

(a) The common law of agency under Arkansas as supplemented by this section applies to the relationship between a licensee and the licensee’s client.

(b)(1) In accepting employment by a client, a licensee pledges a primary duty of absolute fidelity to protect and promote the interests of the client or clients.

(2) The licensee’s duty includes without limitation the obligation to:

- (A) Use reasonable efforts to further the interest of the client;
- (B) Exercise reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;
- (C) Perform the terms of the written agency agreement;

(D) Follow lawful instructions of the client unless doing so would expose the licensee to liability from another party to a contract, lease, or rental agreement;

(E) Perform all duties specified in this section in a manner that demonstrates loyalty to the interests of the client;

(F) Comply with all requirements of this section and other applicable statutes and rules;

(G) Disclose to the client material facts of the transaction that the licensee is aware of or should be aware of in the exercise of reasonable skill and care and that are not confidential information under a current or prior agency or dual agency relationship;

(H) Advise the client to obtain expert advice concerning material matters when necessary or appropriate;

(I) Account in a timely manner for all moneys and property received in which the client has or may have an interest;

(J) Keep confidential all confidential information; and

(K) Refrain from disclosing confidential information to a licensee who is not an agent of the client.

(c) The duties required of a licensee under this section may not be waived by a client.

**History.** Acts 2011, No. 877, § 1; 2019, substituted “statutes and rules” for “statutes, rules, and regulations” in (b)(2)(F).  
No. 315, § 1465.

**Amendments.** The 2019 amendment

## RESEARCH REFERENCES

**ALR.** Duty of Seller of Real Estate and Property Subject to Sale. 18 A.L.R.7th Art. Its Agent to Disclose to Buyer Facts of 2 (2017).  
Past Violent Crimes or Hauntings Within

## SUBCHAPTER 4 — APPLICABILITY — REAL ESTATE RECOVERY FUND — DISCIPLINARY ACTIONS

### SECTION.

17-42-405. Additional fee.

17-42-406. Disciplinary hearing — Procedure.

### 17-42-405. Additional fee.

(a) In addition to the other fees provided for in this chapter and rules of the Arkansas Real Estate Commission, each licensed real estate broker and salesperson shall pay to the commission for the benefit of the Real Estate Recovery Fund a fee as the commission may require, not to exceed the lesser of:

(1) Twenty-five dollars (\$25.00) per annual renewal; or

(2) An amount sufficient to restore the fund balance to two hundred fifty thousand dollars (\$250,000).

(b) Likewise, each person who becomes a licensee for the first time shall at that time pay to the commission for the benefit of the fund such



fee as the commission may require, not to exceed twenty-five dollars (\$25.00).

(c) No fees collected under the provisions of this subchapter may be expended from the fund except for the purposes set forth in this subchapter.

**History.** Acts 1993, No. 690, § 22; substituted “rules” for “regulations” in the 2019, No. 315, § 1466.

**Amendments.** The 2019 amendment

### 17-42-406. Disciplinary hearing — Procedure.

(a)(1) In any disciplinary hearing before the Arkansas Real Estate Commission which involves any licensee who has allegedly violated any provision of this chapter or commission rules, the commission shall first determine whether a violation has occurred.

(2) If so, the commission shall then determine the amount of damages, if any, suffered by the aggrieved party or parties. However, damages shall be limited to actual damages in accordance with § 17-42-407.

(3) The commission shall then direct the licensee to pay that amount to the aggrieved party or parties.

(4) If that amount has not been paid within thirty (30) days following entry of the commission’s final order in the matter and the order has not been appealed to the circuit court, then the commission shall pay, upon request, from the Real Estate Recovery Fund to the aggrieved party or parties the amount specified. However, the commission shall not:

(A) Pay in excess of twenty-five thousand dollars (\$25,000) for any one (1) violation or continuing series of violations, regardless of the number of licensees who participated in such a violation or continuing series of violations; or

(B) Pay an amount in excess of the fund balance.

(b) The question of whether or not certain violations constitute a continuing series of violations shall be a matter solely within the discretion and judgment of the commission.

(c) Nothing within this subchapter shall obligate the fund for any amount in excess of a total of seventy-five thousand dollars (\$75,000) with respect to:

(1) The acts of any one (1) licensee; or

(2) Any group of related claims.

(d) Whether or not a claim is one (1) of a group of related claims shall be a matter solely within the discretion and judgment of the commission.

(e) When unsatisfied or pending claims are such that they exceed the limits payable under subsection (c) of this section, the commission shall be the sole determinant of how the available funds shall be allocated among such claims.

**History.** Acts 1993, No. 690, § 22; 1997, No. 781, § 1; 2007, No. 263, §§ 9, 10; 2019, No. 315, § 1467.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a)(1).

**SUBCHAPTER 5 — RENEWAL OF LICENSES**

## SECTION.

17-42-509. Issuance or denial of license.

17-42-510. Education fees.

## SECTION.

17-42-515. Violations.

**17-42-509. Issuance or denial of license.**

(a) The Arkansas Real Estate Commission shall issue a license to an applicant instructor of real estate education who:

- (1) Is twenty-one (21) years of age or older;
- (2) Has successfully completed the real estate education requirements under this subchapter;
- (3) Has sufficient experience as determined by the commission;
- (4) Has no record of unprofessional conduct; and
- (5) Shows evidence of a reputation of honesty, trustworthiness, and integrity sufficient to safeguard the interest of the public.

(b) The commission shall determine what constitutes proof of meeting the requirements of subsection (a) of this section.

(c) A person or entity shall not be issued a license under this subchapter if:

- (1) The person or entity has had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons;
- (2) The person has been refused a renewal of a license issued by this state or any other jurisdiction;
- (3) The person or entity has pleaded guilty or nolo contendere to or been found guilty of a felony listed under § 17-3-102 or a misdemeanor involving violence, fraud, misrepresentation, or dishonest or dishonorable dealing in a court of competent jurisdiction; or

(4) The person or entity fails to pay the appropriate fees.

(d)(1) Subsection (c) of this section may be waived by the commission on request of an affected applicant for licensure.

(2) Circumstances for which a waiver may be granted include:

- (A) The applicant's age at the time the action occurred;
- (B) The circumstances surrounding the action;
- (C) The length of time since the action;
- (D) Work history;
- (E) Employment references;
- (F) Character references; and
- (G) Other evidence demonstrating that the applicant does not pose a threat to the public.

**History.** Acts 2013, No. 281, § 3; 2019, in (c)(3), inserted "listed under § 17-3-102", inserted the second occurrence of No. 990, § 46.

**Amendments.** The 2019 amendment, "a", and inserted "violence".

**17-42-510. Education fees.**

(a) The Arkansas Real Estate Commission may charge and collect the following fees annually:



- (1) An original license fee for each main school not to exceed five hundred dollars (\$500);
  - (2) An original license fee for each branch school not to exceed three hundred dollars (\$300);
  - (3) A renewal fee for each main school not to exceed four hundred dollars (\$400);
  - (4) A renewal fee for each branch school not to exceed two hundred dollars (\$200);
  - (5) An administrator license application fee not to exceed two hundred dollars (\$200);
  - (6) An administrator license renewal fee not to exceed one hundred dollars (\$100);
  - (7) A principal instructor license application fee not to exceed two hundred fifty dollars (\$250);
  - (8) A principal instructor license renewal fee not to exceed one hundred fifty dollars (\$150);
  - (9) An associate instructor license application fee not to exceed two hundred dollars (\$200);
  - (10) An associate instructor license renewal fee not to exceed one hundred dollars (\$100);
  - (11) A license amendment fee not to exceed one hundred dollars (\$100);
  - (12) A license reissuance fee not to exceed fifty dollars (\$50.00);
  - (13) A course approval fee not to exceed one hundred dollars (\$100) for each approved course;
  - (14) A course approval renewal fee not to exceed fifty dollars (\$50.00) for each approved course;
  - (15) A late renewal fee for a license or course approval not to exceed two hundred fifty dollars (\$250); and
  - (16) For an appeal of the dismissal of a complaint by the Executive Director of the Arkansas Real Estate Commission, a filing fee not to exceed one hundred dollars (\$100).
- (b) Except for the fees for course approval and course approval renewal, state agencies and full-time accredited college or university instructors are exempt from the fees in this subchapter.

**History.** Acts 2013, No. 281, § 3; 2015, No. 1156, § 7; 2019, No. 386, § 25.

**Amendments.** The 2019 amendment inserted "license" in (a)(6).

## 17-42-515. Violations.

An applicant for a real estate educator license or a licensee is subject to disciplinary action under this subchapter if the applicant for a real estate educator license or a licensee pleads guilty or nolo contendere to or is found guilty of any of the following:

- (1) Obtaining a real estate educator license or real estate education course approval by fraud, misrepresentation, or concealment;
- (2) Violating this subchapter, the rules adopted by the Arkansas Real Estate Commission, or an order issued by the commission;

(3) Committing an act, a felony listed under § 17-3-102, or a crime involving violence, fraud, dishonesty, untruthfulness, or untrustworthiness regardless of whether the imposition of the sentence has been deferred or suspended;

(4) Engaging or allowing unlawful discriminatory practices;

(5) Violating the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., regarding access to and delivery of real estate education courses;

(6) Issuing or reporting a false certificate of completion for a real estate education course;

(7) Teaching a course in a way that instructs licensees to engage in unlawful or noncompliant activities;

(8) Failing to monitor attendance of students to ensure satisfactory completion of real estate education courses approved by the commission;

(9) Utilizing an instructor or guest speaker who does not meet the requirements of this subchapter;

(10) Making a substantial misrepresentation of a material fact to the commission;

(11) Advertising in a false, misleading, or deceptive way;

(12) Being unworthy or incompetent to act or operate as a real estate education school or association or a real estate educator; or

(13) Engaging in other conduct that constitutes improper, fraudulent, or dishonest dealing.

**History.** Acts 2013, No. 281, § 3; 2015, No. 1156, § 9; 2019, No. 990, § 47.

in (3), inserted “a” twice, inserted “listed under § 17-3-102”, and substituted “violence” for “moral turpitude”.

**Amendments.** The 2019 amendment,

## SUBCHAPTER 7 — INTERFERENCE WITH REAL ESTATE LICENSEE RELATIONSHIPS

### SECTION.

17-42-702. Interference with licensee relationships prohibited.

### 17-42-702. Interference with licensee relationships prohibited.

(a) No person shall knowingly interfere with a licensee relationship between a licensee and a person or entity.

(b) No licensee shall be liable for a referral fee when reasonable cause for payment does not exist.

(c)(1) Any person or entity aggrieved by a violation of this subchapter may bring a civil action in any court of competent jurisdiction.

(2) The damages recoverable in an action under subdivision (c)(1) of this section shall be:

(A) The actual damages; and

(B) Reasonable attorney’s fees and expenses.

(d) Nothing in this subchapter is intended to:



- (1) Create a presumption that if reasonable cause for payment of a referral fee exists, a legal right to the referral fee exists; or
- (2) Authorize the payment of a referral fee that is otherwise prohibited by law or rule of the Arkansas Real Estate Commission.

**History.** Acts 2005, No. 1946, § 1; substituted “rule” for “regulation” in 2019, No. 315, § 1468.

**Amendments.** The 2019 amendment

## CHAPTER 43

### SANITARIANS

SUBCHAPTER.

- 2. ARKANSAS STATE BOARD OF SANITARIANS.
- 3. CERTIFICATE OF REGISTRATION.

#### SUBCHAPTER 2 — ARKANSAS STATE BOARD OF SANITARIANS

SECTION.

- 17-43-201. Creation — Members.
- 17-43-203. Duties and powers.
- 17-43-204. Disposition of funds — Report.
- 17-43-206. Board seminars or workshops
  - Travel expenses.

SECTION.

- 17-43-207. Transfer of the Arkansas State Board of Sanitarians.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

#### 17-43-201. Creation — Members.

(a)(1) There is created the Arkansas State Board of Sanitarians to consist of six (6) members who shall be appointed by the Governor, subject to confirmation by the Senate.

(2)(A) Five (5) members shall be sanitarians who have been residents in the State of Arkansas for at least one (1) year, have had experience in the field of environmental sanitation for at least five (5) years, are presently engaged in the field of environmental sanitation, and are not less than thirty (30) years of age. Each shall hold a current certificate of registration issued by the board.

(B) Terms of office shall be fixed so that one (1) professional member of the board will be retired each year.

(C)(i) The Governor shall fill the expired term of the retiring board member by appointment.

(ii) The Governor shall consult the Arkansas Society of Professional Sanitarians before making an appointment under this subdivision (a)(2)(C).

(3)(A) One (1) member shall not be actively engaged in the business of sanitation or retired as a sanitarian and shall represent consumers.

(B) This member shall be appointed from the state at large, subject to confirmation by the Senate.

(C) He or she shall be a full voting member but shall not participate in the grading of examinations.

(b) Each member shall be appointed for a five-year period except for a person who is appointed to fill the unexpired term of another member. The term of office shall expire on June 30 of each year.

(c) The Governor shall fill any vacancy caused by death, resignation, or removal for the unexpired term.

(d) The Governor may remove any member of the board for misconduct, incapacity, or neglect of duty.

(e) The members of the board shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-901 et seq.

**History.** Acts 1957, No. 281, §§ 3, 4; 1977, No. 113, §§ 1-3; 1981, No. 717, § 2; 1985, No. 582, § 2; A.S.A. 1947, §§ 6-617 — 6-619, 71-1603, 71-1604; Acts 1997, No. 250, § 148; 2015, No. 1100, § 28; 2019, No. 386, § 26.

**Amendments.** The 2019 amendment added the (a)(3)(A) through (a)(3)(C) designations; and inserted “the business of sanitation” in (a)(3)(A).

### 17-43-203. Duties and powers.

(a) The Arkansas State Board of Sanitarians shall have such authority as is reasonably necessary to administer this chapter.

(b) The Chair of the Arkansas State Board of Sanitarians and the Secretary of the Arkansas State Board of Sanitarians may administer oaths and subpoena witnesses.

(c) The secretary shall keep a record of all proceedings of the board, including a register of all holders of a current certificate of registration. These records shall be open to the public at all reasonable times.

(d) [Repealed.]

(e) As a means to maintain professional competency, the board shall promulgate rules establishing standards for continuing education. The continuing education units shall be direct participation in a course or courses approved by the board. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to registered sanitarians, including, but not limited to, academic studies, in-service education, institutes, seminars,



lectures, conferences, workshops, extension courses, home study programs, articles published, and scientific papers published. The standards should recognize specialized areas of endeavor. The board may contract with another agency or association to perform part or all of the duties in establishing procedures to record and retain continuing education units data for all registered sanitarians in good standing.

(f) The board shall have power to determine all matters within its jurisdiction, subject to review of the circuit court or at the option of the aggrieved party by the circuit court of the county in which he or she resides.

**History.** Acts 1957, No. 281, §§ 6, 19; 1985, No. 582, § 3; A.S.A. 1947, §§ 71-1606, 71-1619; Acts 2019, No. 315, § 1469; 2019, No. 910, § 4861.

by No. 315 deleted “and regulations” following “rules” in the first sentence of (e). The 2019 amendment by No. 910 repealed (d).

**Amendments.** The 2019 amendment

### 17-43-204. Disposition of funds — Report.

(a) All fees or payments of any type collected by the Arkansas State Board of Sanitarians under this chapter shall be kept in a separate fund.

(b) The board shall make a report annually to the Secretary of the Department of Health, showing all receipts and disbursements of moneys and a summary of all business transacted during the year.

(c) The expenses provided in this chapter shall be paid by the board from the fees collected by it.

**History.** Acts 1957, No. 281, § 16; A.S.A. 1947, § 71-1616; Acts 1997, No. 250, § 149; 2019, No. 910, § 4862.

**Amendments.** The 2019 amendment substituted “Secretary of the Department of Health” for “Governor” in (b).

### 17-43-206. Board seminars or workshops — Travel expenses.

The Arkansas State Board of Sanitarians may authorize payments to be made to each registered sanitarian as partial reimbursement for actual travel expenses incurred, but not to exceed the amounts authorized for state employees for such expenses and not otherwise reimbursed, in attending seminars or workshops sponsored by the board in accordance with state travel rules.

**History.** Acts 1983, No. 152, § 3; A.S.A. 1947, § 71-1621; Acts 2019, No. 315, § 1470.

**Amendments.** The 2019 amendment substituted “rules” for “regulations”.

### 17-43-207. Transfer of the Arkansas State Board of Sanitarians.

(a)(1) Effective July 1, 2013, the Arkansas State Board of Sanitarians is transferred to the Department of Health and shall be administered by the Secretary of the Department of Health.

(2) All authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds of the board are transferred to the department.

(b) In order to protect the board, to allow for continuation of necessary procedures, and to provide for a smooth transition to the department, the secretary may not realign the functions and records of the board before July 1, 2014.

**History.** Acts 2013, No. 481, § 2; 2019, No. 910, § 4863.

substituted "Secretary of the Department of Health" for "Director of the Department of Health" in (a)(1).

**Amendments.** The 2019 amendment

### SUBCHAPTER 3 — CERTIFICATE OF REGISTRATION

#### SECTION.

17-43-303. Application for examination.

17-43-307. Reciprocity.

17-43-309. Grounds for suspension, revocation, or refusal to renew  
— Duty of board to hire independent investigator  
— Scope of investigation.

#### 17-43-303. Application for examination.

(a) The Arkansas State Board of Sanitarians shall admit to examination any person who makes application to the Secretary of the Arkansas State Board of Sanitarians on forms prescribed and furnished by the board and pays an application fee of twenty dollars (\$20.00) to defray the expense of examination.

(b) The minimum requirements for admission to examination as a registered sanitarian shall be as follows:

(1) A bachelor's degree or master's degree in public health with specialization in sanitary sciences from an approved school of public health; or

(2) A college graduate in one (1) of the natural sciences, i.e., biology, chemistry, physics, math, earth science, or geology, or engineering, with a minimum of thirty (30) semester hours or its equivalent of those subjects, plus one (1) year's experience in environmental sanitation or approved training courses.

(c) Any person who meets the educational qualifications of subdivision (b)(2) of this section but who does not meet the experience requirements of subdivision (b)(2) of this section may make application to the board through a process prescribed by the board for acceptance as a sanitarian-in-training. The board shall accept the application when submitted, if accompanied by the required fee, not to exceed ten dollars (\$10.00), as prescribed by the board.

(d) Within ninety (90) days after an application is filed with the secretary, the board shall notify the applicant whether his or her application for examination was accepted or rejected and, if rejected, the reason therefor.



(e) One-half (½) of the application fee shall be returned to each rejected applicant.

**History.** Acts 1957, No. 281, §§ 8, 9; 1977, No. 257, § 1; 1985, No. 582, § 4; A.S.A. 1947, §§ 71-1608, 71-1609; Acts 1993, No. 1219, § 11; 2019, No. 990, § 48.

**Amendments.** The 2019 amendment,

in (a), inserted the second occurrence of “and”, and deleted “and submits evidence satisfactory to the board that he or she is of good moral character” from the end.

### 17-43-307. Reciprocity.

The Arkansas State Board of Sanitarians shall issue a certificate of registration without examination to any person who makes application on forms prescribed and furnished by the board, pays a registration fee of ten dollars (\$10.00), and submits satisfactory proof that he or she:

(1) Has had at least two (2) years’ experience in the field of environmental sanitation; and

(2) Is registered as a sanitarian in a state in which the qualifications for registration are not lower than the qualifications for registration in this state at the time he or she applies for registration.

**History.** Acts 1957, No. 281, § 14; A.S.A. 1947, § 71-1614; Acts 2019, No. 990, § 49.

**Amendments.** The 2019 amendment deleted former (1) and redesignated the remaining subdivisions accordingly.

### 17-43-309. Grounds for suspension, revocation, or refusal to renew — Duty of board to hire independent investigator — Scope of investigation.

(a) The Arkansas State Board of Sanitarians may suspend, revoke, or refuse to renew a certificate of registration upon proof that the applicant is guilty of fraud, deceit, gross negligence, incompetency, or misconduct in relation to his or her duties as a sanitarian.

(b)(1) When necessary to determine whether grounds exist under this section to suspend, revoke, or refuse to renew a certificate of registration, the board shall hire and fix the compensation of an independent investigator to perform the investigation.

(2) The scope of the investigation shall not exceed matters that are reasonably necessary to determine whether grounds exist under this section to suspend, revoke, or refuse to renew a certificate of registration.

**History.** Acts 1957, No. 281, § 17; A.S.A. 1947, § 71-1617; Acts 2011, No. 295, § 2; 2019, No. 990, § 50.

**Amendments.** The 2019 amendment deleted (a)(1); deleted the (a)(2) designation; and made stylistic changes.

## CHAPTER 44

### SCRAP METAL DEALERS

## SECTION.

17-44-101. Definitions.

17-44-102. Records required — Definition.

## SECTION.

17-44-108. License to sell required.

17-44-109. Buyer of used catalytic converter.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

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#### 17-44-101. Definitions.

As used in this chapter:

(1) "Beverage container" means a can, bottle, jar, or other container made of aluminum or metal that is sealed by a manufacturer;

(2) "Catalytic converter" means an exhaust emission control device that reduces toxic gases and pollutants from internal combustion engines;

(3) "Minor" means a person under eighteen (18) years of age;

(4)(A) "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel.

(B) "Nonferrous metal" includes without limitation the following metals and their alloys:

(i) Copper;

(ii) Brass;

(iii) Aluminum;

(iv) Bronze;

(v) Lead;

(vi) Zinc; and

(vii) Nickel;

(5) "Person" means an individual, a partnership, a corporation, a joint venture, a trust, an association, or any other legal entity;

(6) "Record" means paper, electronic, or other method of storing information;

(7) "Scrap metal" means bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous;



(8) “Scrap metal processor” means a person that, from a fixed location, engages in the business of using machinery or equipment for the processing or manufacturing of iron, steel, or nonferrous metal scrap;

(9)(A) “Scrap metal recycler” means any person that purchases scrap metal.

(B) “Scrap metal recycler” does not include a person that only buys in quantities of five thousand pounds (5,000 lbs.) or more; and

(10)(A) “Seller” means any person that receives in a transaction monetary consideration from a scrap metal recycler in exchange for nonferrous metal, iron, or steel, including without limitation copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(B) “Seller” does not include a person that sells scrap metal generated in a manufacturing or production process and sold to a scrap metal recycler under a contract or an agreement.

**History.** Acts 1953, No. 139, §§ 1-3; 1957, No. 240, § 1; A.S.A. 1947, §§ 71-1501 — 71-1503; Acts 1991, No. 669, § 1; 2005, No. 1994, § 227; 2007, No. 749, § 1; 2021, No. 1083, § 1.

**Amendments.** The 2021 amendment added the definition for “Catalytic converter”.

### **17-44-102. Records required — Definition.**

(a) As used in this section, “reasonable, written documentation” means a written document that includes the following information provided by the seller of the scrap metal to the scrap metal recycler:

(1) The name of the entity or individual from whom the seller acquired the scrap metal;

(2) The date the seller acquired the scrap metal;

(3) The physical address from where the seller acquired the scrap metal;

(4) An affirmation or certification from the seller in the written document that he or she is the owner of the scrap metal or is the employer, agent, licensed contractor, licensed HVACR, plumber, electrician, or other person authorized to sell the scrap metal on behalf of the owner; and

(5) An affirmation or certification from the seller in the written document that he or she has not pleaded guilty or nolo contendere to or been found guilty of theft, burglary, or vandalism when the offense involved scrap metal.

(b) A seller shall not sell and a scrap metal recycler shall not purchase scrap metal unless reasonable, written documentation is provided that the seller is the owner of the scrap metal or is an employee, agent, or other person authorized to sell the scrap metal on behalf of the owner.

(c)(1) Each scrap metal recycler doing business in the State of Arkansas shall maintain an accurate and legible record of each scrap metal purchase transaction.

(2) Individual records shall not be required for a series of scrap metal purchase transactions made under a contract.

(3) The data required under subdivision (d)(1) of this section may be maintained for repeat sellers in a relational database allowing the scrap metal recycler to record the information one (1) time and relate future purchase records to that information.

(4) A municipality or county may require by ordinance electronic or digital records and reporting methods.

(d) The record of each scrap metal purchase transaction shall contain the following information taken at the time of sale and kept on record:

(1) The name, address, gender, birth date, and identifying number from the seller's driver's license, military identification card, passport, or other form of government-issued photo identification;

(2) A photocopy of the government-issued photo identification provided under subdivision (d)(1) of this section;

(3) The date of the scrap metal purchase transaction;

(4) The digital thumbprints of the seller;

(5)(A) A general description of the predominant types of scrap metal purchased.

(B) The general description shall be made in accordance with the custom of the trade;

(6) A general description of the configuration of the scrap metal and whether the material is insulated;

(7) The weight, quantity, or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased;

(8) The consideration paid;

(9) The license plate number of the vehicle used in transporting the materials to the scrap metal recycler's place of business; and

(10)(A) A clearly identifiable date-and-time-stamped digital photograph of:

(i) The seller;

(ii) The scrap metal in the form in which it was purchased; and

(iii) A catalytic converter, if any.

(B) The name of the person taking the photographs under this subdivision (d)(10) shall be recorded and provided with the photographs.

(e) The photocopy required under subdivision (d)(2) of this section, the digital thumbprints required under subdivision (d)(4) of this section, and the digital photographs taken required under subdivision (d)(10)(A) of this section shall be reasonably clear.

(f)(1)(A) For records required under subsections (a) and (d) of this section, a scrap metal recycler shall file a daily electronic record of scrap metal purchases made for that day.

(B) The report shall be made daily by entering the information into an automated database which may be accessed by law enforcement statewide.

(2)(A) The operator of the electronic database under this section shall send a report that includes a list of all scrap metal recyclers in



the county that have accessed or that have access to the database but have not filed a daily electronic record of scrap metal purchases as required by this section to:

- (i) The county sheriff every seven (7) days; and
- (ii) Any law enforcement agency that requests periodic copies of the report more frequently than every seven (7) days.

(B)(i) A scrap metal recycler who fails to file a daily electronic record of scrap metal purchases as required by this section shall be subject to the civil penalty provided for under § 17-44-106(a) for the first offense.

(ii) A second violation of the daily reporting requirement of this section is a Class A misdemeanor.

(iii) A third or subsequent violation is a Class D felony.

(g) The records required under this section shall be:

- (1) Kept for a period of one (1) year;
- (2) Made available to any law enforcement office of the State of Arkansas and any Arkansas municipality or county; and

(3) Available for use in any legal proceeding.

(h) This section does not apply to transactions:

(1) In which a scrap metal processor purchases, transfers, or otherwise conveys scrap metal to another scrap metal processor if the purchaser or transferee obtained a bill of sale or similar document at the time of transfer;

(2) Involving only beverage or food containers; or

(3) Involving only ferrous metals.

**History.** Acts 1969, No. 148, §§ 1-3; A.S.A. 1947, §§ 71-1501.1 — 71-1501.3; Acts 2005, No. 1994, § 399; 2007, No. 749, § 2; 2009, No. 390, § 2; 2011, No. 1193, § 2; 2013, No. 1354, § 7; 2019, No. 386, § 27; 2021, No. 1083, § 2.

in (f)(2)(A), substituted “includes” for “shall include”, and added “to”; substituted “The” for “To the” in (f)(2)(A)(i); substituted “Any” for “To any” in (f)(2)(A)(ii); and deleted (f)(2)(C).

The 2021 amendment added (d)(10)(A)(iii) and made stylistic changes.

## 17-44-108. License to sell required.

(a)(1) A license is required for all scrap metal recyclers to be issued by the county sheriff.

(2)(A) A license under this section shall cost two hundred fifty dollars (\$250) and may be renewed annually for twenty-five dollars (\$25.00).

(B) The fees described in subdivision (a)(2)(A) of this section do not apply to a not-for-profit scrap metal dealer or not-for-profit scrap metal recycler.

(3) The license fee shall be payable to the county sheriff and shall be used for the county sheriff's general operating expenses.

(b) Before a license may be issued under this section, a person operating as a scrap metal recycler shall:

(1) Have a fixed physical location with a full complement of permanent utilities, if applicable, including without limitation:

(A) Water;

- (B) Sewer;
- (C) Electricity; and
- (D) Gas;

(2) Show proof of a required national pollution discharge elimination system stormwater permit issued by the Division of Environmental Quality; and

(3) Have the ability to comply with online reporting as required by this chapter.

(c) A license under this section may be suspended or revoked by a court having jurisdiction if the prosecuting attorney shows in a civil action that a scrap metal recycler has failed to comply with the requirements of this chapter.

**History.** Acts 2013, No. 1354, § 9; substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (b)(2).

**Amendments.** The 2019 amendment

### 17-44-109. Buyer of used catalytic converter.

(a)(1) A buyer of a used catalytic converter other than a scrap metal recycler shall file an electronic record of the used catalytic converter purchase.

(2) An electronic record under subdivision (a)(1) of this section is not required if:

(A) A used catalytic converter is sold as a vehicle repair part in compliance with United States Environmental Protection Agency policy;

(B)(i) The used catalytic converter is marked with the date the converter was removed from the vehicle.

(ii) The marking may be made in any permanent manner, including but not limited to engraving or use of permanent ink.

(iii) The marking must clearly and legibly indicate the date the catalytic converter was removed from the vehicle;

(C)(i) The vehicle identification number of the vehicle from which the converter was removed or an alternative number to the vehicle identification number is marked on the catalytic converter.

(ii) If an alternative number is used, the alternative number must be under a numbering system that can be immediately linked to the vehicle identification number by law enforcement.

(iii) The marking may be made in any permanent manner, including but not limited to engraving or use of permanent ink.

(iv) The marking must clearly and legibly indicate the vehicle identification number or the alternative number the catalytic converter was removed from the vehicle.

(3) The electronic record shall be entered into the database established under § 17-44-102 within twenty-four (24) hours of a purchase of a used catalytic converter.

(4) The electronic record shall contain the following information:

(A) The name and home address of the buyer;



- (B) The name and home address of the seller;
- (C) The license plate of the seller's vehicle;
- (D) The seller's driver's license number or number from a different form of government-issued photo identification;
- (E) The number of used catalytic converters purchased; and
- (F) A photo of the used catalytic converter or used catalytic converters purchased.

(b) The buyer of a used catalytic converter other than a scrap metal recycler:

(1) Shall maintain a receipt of the electronic record entry as a record of the purchase of a used catalytic converter; and

(2) Is subject to the penalties under § 17-44-102(f)(2)(B) for failure to file an electronic report of the purchase of a used catalytic converter.

(c) The records required under this section shall be:

(1) Kept for a period of one (1) year;

(2) Made available to any law enforcement agency of the State of Arkansas or Arkansas municipality or county; and

(3) Available for use in any legal proceeding.

(d) The database used to file and store the electronic records under this section shall be the same database established under § 17-44-102 and provide a public portal to enter the electronic record in the database used by scrap metal recyclers.

(e)(1) A buyer of a used catalytic converter other than a scrap metal recycler must be registered with the county sheriff.

(2) The initial registration fee under this subsection is two hundred fifty dollars (\$250) and may be renewed annually for twenty-five dollars (\$25.00).

(3)(A) The registration fee shall be payable to the county sheriff of the county in which the buyer of a used catalytic converter has a fixed physical location.

(B) The registration fee shall be used for the county sheriff's general operating expenses.

(4) Before a registration is issued under this subsection, a person operating as a buyer of used catalytic converters shall have a fixed physical location with the utilities necessary to operate as a buyer of used catalytic converters.

(5) A buyer of used catalytic converters shall have the ability to comply with online reporting as required by this section.

(6) Registration under this subsection may be suspended or revoked by a court having jurisdiction if the prosecuting attorney shows in a civil action that the buyer of used catalytic converters has failed to comply with the requirements of this section.

(f)(1) A buyer of used catalytic converters who fails to file a daily electronic record of a catalytic converter purchase required by this section is subject to the civil penalty under § 17-44-106(a) for the first offense.

(2) A second violation of the daily reporting requirement of this section is a Class A misdemeanor.

(3) A third or subsequent violation is a Class D felony.

**History.** Acts 2021, No. 1083, § 3.

## CHAPTER 45

### SEPTIC TANK CLEANERS

#### SECTION.

17-45-102. Rules.

17-45-103. Licensing — Fees — Transfer  
of unexpended funds.

#### SECTION.

17-45-105. Disposition of fees.

#### 17-45-102. Rules.

The Department of Health shall promulgate rules for the administration of this chapter, including the collection of the fees provided for in § 17-45-103.

**History.** Acts 1973, No. 71, § 4; A.S.A. deleted “and regulations” following 1947, § 71-2504; Acts 2019, No. 315, “Rules” in the section heading and made a § 1471. similar change in the text.

**Amendments.** The 2019 amendment

#### 17-45-103. Licensing — Fees — Transfer of unexpended funds.

(a) No person, firm, corporation, partnership, or association shall engage in the business of septic tank cleaning for compensation without first obtaining a license as provided in this section.

(b) Any person, firm, corporation, partnership, or association desiring to obtain a license for engaging in the business of septic tank cleaning shall make application to the Department of Health and shall prove to the satisfaction of the Secretary of the Department of Health, or his or her representative, that he or she is morally and financially responsible.

(c) The license required by this chapter shall be valid for one (1) year from the date of issue and shall bear an identifying number. An annual fee of twenty-five dollars (\$25.00) shall be charged for issuance of the license.

(d) In addition to this annual licensure fee, an annual fee of twenty-five dollars (\$25.00) shall be charged for every tank pumper vehicle above the first vehicle owned by the person, firm, corporation, partnership, or association in the business of septic tank cleaning which is used in the operation of that business.

(e) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department is authorized to transfer all unexpended funds relative to septic tank cleaners' licenses that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.



<p><b>History.</b> Acts 1973, No. 71, § 1; A.S.A. 1947, § 71-2501; Acts 1987, No. 740, § 1; 2019, No. 315, § 1472.</p>	<p><b>Amendments.</b> The 2019 amendment deleted “and regulations” following “rules” in (e).</p>
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**17-45-105. Disposition of fees.**

All fees levied and collected under the provisions of this chapter are declared to be special revenues and shall be deposited into the State Treasury and credited to the general account of the Public Health Fund or any successor fund, fund account, or account.

<p><b>History.</b> Acts 1973, No. 71, § 3; A.S.A. 1947, § 71-2503; Acts 2019, No. 386, § 28.</p>	<p>substituted “general account” for “General Account”.</p>
<p><b>Amendments.</b> The 2019 amendment</p>	

## CHAPTER 47

### SOIL CLASSIFIERS

SUBCHAPTER.

2. ARKANSAS STATE BOARD OF REGISTRATION FOR PROFESSIONAL SOIL CLASSIFIERS.
3. REGISTRATION AND CERTIFICATION.

#### SUBCHAPTER 2 — ARKANSAS STATE BOARD OF REGISTRATION FOR PROFESSIONAL SOIL CLASSIFIERS

SECTION.

- 17-47-202. Powers of the board.
- 17-47-203. Records and reports — Disposition of funds.

<p><b>Effective Dates.</b> Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and</p>	<p>classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”</p>
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**17-47-202. Powers of the board.**

The Arkansas State Board of Registration for Professional Soil Classifiers shall have the power to:

- (1) Administer this chapter;

(2) Adopt and amend all bylaws and rules of procedure to administer and carry out the provisions of this chapter and for the conduct of its affairs and functions, consistent with this chapter and the Arkansas Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulation of its proceedings, meetings, records, examinations, and the conduct thereof;

(3) Adopt and promulgate a code of ethics which shall be binding upon all persons registered under or subject to this chapter;

(4) [Repealed.]

(5) Apply in the name of the state for relief by injunction, without bond, enforce the provisions of this chapter, or restrain any violation thereof. In this proceeding it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under this proceeding; and

(6) Enter into agreements with the Department of Agriculture to share office, clerical, and secretarial services and to reimburse the department for the cost of the services.

**History.** Acts 1975, No. 460, § 3; A.S.A. 1947, § 71-2703; Acts 2019, No. 315, § 1473; 2019, No. 910, §§ 101, 102.

**Amendments.** The 2019 amendment by No. 315 substituted “bylaws and rules of procedure” for “bylaws, rules of procedure, and regulations” in (2).

The 2019 amendment by No. 910 repealed (4); and, in (6), substituted “Department of Agriculture” for “Arkansas Natural Resources Commission” and “department” for “commission”.

### 17-47-203. Records and reports — Disposition of funds.

The Arkansas State Board of Registration for Professional Soil Classifiers shall:

(1) Keep a record of its proceedings and of all applications for registration which shall show the name, age, and last known address of each applicant, his or her education, experience, and other qualifications, type of examination required, whether or not a certificate of registration was granted, whether or not the applicant was rejected, the date of the action of the board, and other information which may be deemed necessary by the board. The record of the board shall be prima facie evidence of the proceeding of the board. A transcript thereof certified by the Secretary of the Arkansas State Board of Registration for Professional Soil Classifiers under seal shall be admissible as evidence with the same force and effect as if the original were produced;

(2) Annually submit to the Secretary of the Department of Agriculture a report of its transactions of the preceding year and transmit to him or her a complete statement of the receipts and expenditures of the board attested by affidavits of the Chair of the Arkansas State Board of Registration for Professional Soil Classifiers and the Secretary of the Arkansas State Board of Registration for Professional Soil Classifiers; and



(3) Establish accounts in one (1) or more banks in this state, chosen by the board, into which all funds collected by the board under this chapter shall be deposited and from which all expenditures approved by the board, or by the chair and the Secretary of the Arkansas State Board of Registration for Professional Soil Classifiers acting on authority of the board, shall be made.

**History.** Acts 1975, No. 460, § 4; A.S.A. 1947, § 71-2704; Acts 2019, No. 910, § 103.

**Amendments.** The 2019 amendment substituted “Secretary of the Department of Agriculture” for “Governor” in (2).

SUBCHAPTER 3 — REGISTRATION AND CERTIFICATION

SECTION.	SECTION.
17-47-302. Eligibility — Application.	17-47-312. Disciplinary actions — Procedure.
17-47-308. Expiration and renewal.	
17-47-311. Disciplinary actions — Grounds.	

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-47-302. Eligibility — Application.

- (a) To be eligible for registration as a professional soil classifier or certification as a soil classifier-in-training, an applicant shall submit a written application to the Arkansas State Board of Registration for Professional Soil Classifiers containing information the board may require, together with five (5) references, three (3) of which shall be professional soil classifiers having personal knowledge of his or her soil classifying experience or, in the case of an application for certification as a soil classifier-in-training, three (3) character references.
- (b) Application for registration as a professional soil classifier and for certification as a soil classifier-in-training shall:
- (1) Be on a form prescribed and furnished by the board;

(2) Contain statements made under oath showing the applicant’s education, a detailed summary of his or her experience, and references as required by this chapter; and

(3) Be accompanied by an application fee established by the board of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

**History.** Acts 1975, No. 460, §§ 5, 9; A.S.A. 1947, §§ 71-2705, 71-2709; Acts 1993, No. 1219, § 12; 2019, No. 990, § 51.

**Amendments.** The 2019 amendment, in (a), deleted the subdivision (1) and (2)

designations, deleted the requirement that the applicant be of good character and reputation, and made stylistic changes.

### 17-47-308. Expiration and renewal.

(a) Certificates of registration shall expire on June 30 following their issuance and shall become invalid after that date unless renewed.

(b)(1) It shall be the duty of the Arkansas State Board of Registration for Professional Soil Classifiers to notify every person registered under this chapter of the date of the expiration of the certificate of registration and the amount of the fee required for its renewal.

(2) Notice shall be mailed to the registrant at his or her last known address at least one (1) month in advance of the expiration of the certificate.

(c) Renewal may be effected at any time before or during the month of July by the payment of a fee established by the board not to exceed the fees established for registration.

(d) Renewal of an expired certificate may be effected under rules promulgated by the board regarding requirements for reexamination and penalty fees.

**History.** Acts 1975, No. 460, § 13; A.S.A. 1947, § 71-2713; Acts 2019, No. 910, § 104.

**Amendments.** The 2019 amendment substituted "Arkansas State Board of

Registration for Professional Soil Classifiers" for "secretary of the Arkansas State Board of Registration for Professional Soil Classifiers" in (b)(1).

### 17-47-311. Disciplinary actions — Grounds.

The Arkansas State Board of Registration for Professional Soil Classifiers shall have the power to suspend, refuse to renew, or revoke the certificate of registration of, or reprimand, any registrant who is guilty of:

- (1) Fraud or deceit in obtaining a certificate of registration;
- (2) Gross negligence, incompetence, or misconduct in the practice of soil classifying;
- (3) A felony listed under § 17-3-102; or
- (4) A violation of the code of ethics adopted and promulgated by the board.

**History.** Acts 1975, No. 460, § 16; A.S.A. 1947, § 71-2716; Acts 2019, No. 990, § 52.

**Amendments.** The 2019 amendment

substituted "felony listed under § 17-3-102" for "felony or crime involving moral turpitude" in (3).



**17-47-312. Disciplinary actions — Procedure.**

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant.

(b) Charges shall be in writing, shall be sworn to by the person or persons making them, and shall be filed with the Arkansas State Board of Registration for Professional Soil Classifiers.

(c) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three (3) months after the date on which they shall have been preferred.

(d) The time and place for the hearing shall be fixed by the board.

(e) A copy of the charges together with a notice of the time and place of hearing shall be served upon the accused either personally or sent by registered or certified mail to the last known address of the individual registrant at least thirty (30) days before the date fixed for hearing.

(f) At any hearing, the accused registrant shall have the right to appear in person or by counsel, or both, to cross-examine witnesses appearing against the accused, and to produce evidence and witnesses in defense of the accused.

(g) If the accused person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

(h) If after the hearing a majority of the board votes in favor of sustaining the charges, the board shall make findings of fact, draw its conclusions, and issue its order therein and serve it upon the accused.

(i) In the order the board may reprimand, suspend, refuse to renew, or revoke the accused individual's certificate of registration.

(j) Any person who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking his or her certificate of registration may appeal therefrom to the circuit court of the county in which he or she resides or in Pulaski County as the aggrieved party may elect.

**History.** Acts 1975, No. 460, § 17; A.S.A. 1947, § 71-2717; Acts 2019, No. 910, § 105.

**Amendments.** The 2019 amendment substituted "Arkansas State Board of

Registration for Professional Soil Classifiers" for "secretary of the Arkansas State Board of Registration for Professional Soil Classifiers" in (b).

## **CHAPTER 48**

### **SURVEYORS**

#### **SUBCHAPTER.**

- 1. GENERAL PROVISIONS.**
- 2. LICENSURE.**

## SUBCHAPTER 1 — GENERAL PROVISIONS

### SECTION.

17-48-102. Penalties — Enforcement.

### 17-48-102. Penalties — Enforcement.

(a)(1) Unless a different penalty is specifically provided, a person who violates this chapter shall be guilty of a Class B misdemeanor.

(2) It is the duty of all duly constituted officers of the state and all of its political subdivisions to enforce this chapter and prosecute any persons violating it.

(b)(1) The State Board of Licensure for Professional Engineers and Professional Surveyors may levy a civil penalty against any licensed engineer, professional surveyor, or surveyor intern who:

(A) Is found guilty of:

(i) Fraud or deceit in his or her practice or in securing a certificate of licensure; or

(ii) Gross negligence, incompetence, or misconduct; or

(B) Fails or refuses to comply with any laws relating to the licensure and practice of engineers, professional surveyors, or surveyor interns or any rules adopted by the board under the authority granted in such laws.

(2) Any civil penalty levied by the board may be in lieu of or in addition to any other sanction imposed by the board.

(3) A civil penalty assessed by the board shall not be more than five thousand dollars (\$5,000).

(c) The Attorney General or his or her assistants shall act as legal advisors to the board and render such legal assistance as may be necessary.

(d) The board may employ counsel to enforce this chapter, the costs to be paid from the funds of the board.

**History.** Acts 1967, No. 101, § 12; A.S.A. 1947, § 71-2311; Acts 1987, No. 1070, § 2; 2005, No. 1178, § 8; 2005, No. 1994, § 401; 2009, No. 444, § 5; 2019, No. 315, § 1474.

**Amendments.** The 2019 amendment deleted “or regulations” following “rules” in (b)(1)(B).

## SUBCHAPTER 2 — LICENSURE

### SECTION.

17-48-203. Qualifications — Certification.

### SECTION.

17-48-205. Administrative violations and penalties.

### 17-48-203. Qualifications — Certification.

(a) A person who shows to the satisfaction of the State Board of Licensure for Professional Engineers and Professional Surveyors that he or she is a person over twenty-one (21) years of age is eligible for



licensure as a professional surveyor if he or she qualifies under one (1) of the following provisions:

(1) A person holding a certificate of licensure to engage in the practice of land surveying issued to him or her on the basis of a written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, or any foreign country, based on requirements and qualifications as shown on his or her application that in the opinion of the board are equal to or higher than the requirements of this chapter may be licensed at the discretion of the board;

(2)(A) A graduate from an approved engineering curriculum with sufficient surveying courses or a surveying technology curriculum of two (2) years or more approved by the board, followed by at least two (2) years of land surveying that must be surveying experience of a character satisfactory to the board, who has passed a written examination designed to show that he or she is qualified to practice land surveying in this state, may be licensed if he or she is otherwise qualified.

(B) Each year of teaching land surveying in an approved engineering or surveying curriculum may be considered as equivalent to one (1) year of land surveying experience; or

(3)(A) An applicant who cannot qualify under subdivision (a)(2) of this section and who has six (6) years or more of active experience in land surveying of a character satisfactory to the board and who has passed a written examination designed to show that he or she is qualified to practice land surveying may be granted a certificate of licensure to practice land surveying in this state if he or she is otherwise qualified.

(B) Each year of satisfactory work in an approved engineering or engineering technology curriculum majoring in surveying may be considered as one (1) year of experience in land surveying, but not exceeding two (2) years.

(b) Effective January 1, 2017, an applicant for licensure as a professional surveyor shall qualify under one (1) of the following provisions:

(1)(A) A graduate holding a baccalaureate degree from a curriculum of four (4) years or more who has completed at least thirty (30) semester credit hours or the equivalent, as approved by the board, in courses involving land surveying, mapping, and real property, as approved by the board, followed by three (3) years or more of experience in responsible charge of land surveying under the supervision of a professional surveyor and who has passed an examination for certification as a surveyor intern shall be admitted to sit for a written examination in a form approved by the board.

(B) An applicant who is otherwise qualified shall be granted licensure as a professional surveyor upon passing the written examination; or

(2)(A) A graduate holding an associate of science degree in surveying or an associate of applied science in surveying degree from a program

approved by the board or its equivalent, as approved by the board, followed by six (6) years or more of experience in responsible charge of land surveying under the supervision of a professional surveyor, and who has passed an examination for certification as a surveyor intern shall be admitted to sit for a written examination in a form approved by the board.

(B) An applicant who is otherwise qualified shall be granted licensure as a professional surveyor upon passing the written examination.

(c) A person shall be eligible for licensure as a surveyor intern if he or she qualifies under one (1) of the following provisions:

(1) A person holding a certificate of licensure as a surveyor intern issued to him or her on the basis of a written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, or any foreign country, based on requirements and qualifications as shown on his or her application, which requirements and qualifications, in the opinion of the board, are equal to or higher than the requirements of this chapter, may be licensed as a surveyor intern at the discretion of the board;

(2) A graduate from an approved engineering curriculum with sufficient surveying courses, or a surveying technology curriculum of two (2) years or more, approved by the board, who has passed a written examination designed to show that he or she is proficient in surveying fundamentals, may be licensed if he or she is otherwise qualified; or

(3)(A) An applicant who cannot qualify under subdivision (c)(2) of this section and who has four (4) years or more of active experience in land surveying of a character satisfactory to the board and who has passed a written examination designed to show that he or she is proficient in surveying fundamentals may be licensed if he or she is otherwise qualified.

(B) Each year of satisfactory work in an approved engineering or engineering technology curriculum majoring in surveying may be considered as one (1) year of experience in land surveying, but not exceeding two (2) years.

(d) Effective January 1, 2017, an applicant for licensure as a surveyor intern shall qualify under one (1) of the following:

(1)(A) A graduate holding or a student enrolled in the last year of a program leading to a baccalaureate degree from a curriculum of four (4) years or more who has finished at least thirty (30) semester credit hours, or the board-approved equivalent, in courses approved by the board involving land surveying, mapping, and real property shall be admitted to sit for a written examination in a form approved by the board.

(B) An applicant who is qualified shall be granted licensure as a surveyor intern on:

- (i) Passing the written examination; and
- (ii) Providing proof of graduation with a board-approved baccalaureate degree; or



(2)(A) A graduate holding or student enrolled in the last year of a program leading to an associate of science or an associate of applied science degree in surveying from a program approved by the board shall be admitted to sit for a written examination in a form approved by the board.

(B) An applicant who is qualified shall be granted licensure as a surveyor intern on:

- (i) Passing the written examination; and
- (ii) Providing proof of graduation with a board-approved associate of science or associate of applied science degree.

**History.** Acts 1967, No. 101, § 4; 1977, No. 807, § 2; A.S.A. 1947, § 71-2304; Acts 2005, No. 1178, § 12; 2009, No. 392, § 1; 2009, No. 444, § 7; 2011, No. 898, § 2; 2019, No. 990, §§ 53, 54.

**Amendments.** The 2019 amendment, in the introductory language of (a), de-

leted “of good character and reputation and” following the second occurrence of “person”; deleted “who shows to the satisfaction of the board that he or she is a person of good character” following “person” in the introductory language of (c); and made a stylistic change.

## 17-48-205. Administrative violations and penalties.

(a) The State Board of Licensure for Professional Engineers and Professional Surveyors may suspend, revoke, or refuse to issue, restore, or renew a certificate of licensure of, or place on probation, fine, or reprimand a professional surveyor who is:

(1) Found guilty of:

(A) Fraud or deceit in obtaining, attempting to obtain, or renewing a certificate of licensure or certificate of authorization;

(B) Negligence, incompetency, or misconduct in the practice of surveying;

(C) Failure to comply with this chapter, the rules of the board, or an order of the board;

(D) Discipline by another state, territory, the District of Columbia, a foreign country, the United States Government, or any other governmental agency, if at least one (1) of the grounds for discipline is the same or substantially equivalent to those contained in this section;

(E) Failure within thirty (30) days to provide information requested by the board as a result of a formal or informal complaint to the board that would indicate a violation of this chapter;

(F) Knowingly making false statements or signing false statements, certificates, or affidavits to induce payment;

(G) Aiding or assisting another person in violating this chapter or the rules of the board;

(H) Violating a term of probation imposed by the board;

(I) Using a seal or practicing surveying while the professional surveyor’s license is suspended, revoked, nonrenewed, or inactive;

(J) Signing, affixing the professional surveyor’s seal, or permitting the professional surveyor’s seal or signature to be affixed to an instrument of practice that has not been prepared or completely

checked by the professional surveyor or under the professional surveyor's direct supervision or control;

(K) Engaging in dishonorable, unethical, or unprofessional conduct of character likely to deceive, defraud, or harm the public;

(L) Providing false testimony or information to the board; or

(M) Habitual intoxication or addiction to the use of drugs or alcohol;

(2) Found guilty of or enters a plea of guilty or nolo contendere to:

(A) A felony listed under § 17-3-102;

(B) A crime of which an essential element is dishonesty; or

(C) A crime that is directly related to the practice of surveying; or

(3) Subject to disciplinary action by another state, territory, the District of Columbia, a foreign country, the United States Government, or other governmental agency, if at least one (1) of the grounds for discipline is the same or substantially equivalent to those contained in this section.

(b) The board may take the following action against a professional surveyor:

(1) Suspend or revoke a certificate of licensure;

(2) Refuse to issue, restore, or renew a certificate of licensure;

(3) Place on probation, impose a fine, or reprimand; or

(4) A combination of the above.

(c) A person that violates this chapter or a rule of the board shall pay a civil penalty to the board of not more than five thousand dollars (\$5,000) for each offense.

(d)(1) The board shall adopt rules of professional conduct under § 17-48-104 that are to be provided to an applicant for licensure.

(2) The board may amend these rules of professional conduct from time to time and shall notify each licensee in writing of the amendments.

(e) The board may:

(1) Revoke a certificate of authorization;

(2) Suspend a certificate of authorization for a time not exceeding two (2) years of a firm when one (1) or more of its officers or directors have been found guilty of conduct that would authorize a revocation or suspension of their certificates of licensure under this section;

(3) Place a firm on probation for a period and subject to the conditions as the board may specify; or

(4) Levy a fine in an amount not more than five thousand dollars (\$5,000) for each offense.

(f) The board may levy a fine in an amount not more than five thousand dollars (\$5,000) for each offense against nonlicensees that violate this chapter.

**History.** Acts 1967, No. 101, § 9; 1977, No. 807, § 5; A.S.A. 1947, § 71-2308; Acts 2005, No. 1178, § 14; 2009, No. 444, § 7; 2011, No. 898, § 4; 2019, No. 990, § 55.

**Amendments.** The 2019 amendment added "listed under § 17-3-102" in (a)(2)(A).



## CHAPTER 49

### TRANSIENT MERCHANTS

#### SUBCHAPTER.

#### 2. ITINERANT MERCHANTS.

#### SUBCHAPTER 2 — ITINERANT MERCHANTS

#### SECTION.

17-49-202. Definitions.

17-49-203. Procedure for exemption.

#### 17-49-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1)(A) "Established place of business" means any permanent warehouse, building, or structure:

(i) At which a permanent business is carried on in good faith, and not for the purpose of evading this subchapter, during usual business hours throughout the year or usual production season;

(ii) At which stocks of the property being transported are produced, stored, or kept in quantities reasonably adequate for, and usually carried for, the requirements of such a business; and

(iii) Which is recognized, and licensed or taxed, as a permanent business at that place.

(B) "Established place of business" shall not mean residences or premises or buildings appurtenant thereto, tents, temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangements;

(2) "Highway" means any thoroughfare defined by any statute or ordinance as a public highway or street;

(3) "Highway patrol" means the Division of Arkansas State Police or any other duly authorized officers authorized to patrol the highways of the state, counties, or cities;

(4)(A) "Itinerant merchant" means, except as otherwise provided in subdivision (4)(B) of this section, any person who sells or offers to sell in this state, at wholesale or retail, any personal property and transports it on any highway in this state by use of a motor vehicle.

(B) "Itinerant merchant" shall not mean or include the following:

(i) A person who does not at any time transport in a motor vehicle a net load exceeding two thousand pounds (2,000 lbs.);

(ii) A person using a motor vehicle owned by him or her, whether operated by him or her or his or her agent, for the transportation of milk, dairy products, grains, fruits, vegetables, livestock, poultry, or other agricultural products, produced or fed by him or her on a farm operated by him or her either within or without this state, or for the transportation of newspapers, magazines, or books;

(iii) A person transporting property owned by him or her in a motor vehicle owned by him or her, whether operated by him or her or his

or her agent, when such transportation is incident to a business conducted by him or her at an established place of business operated by him or her either within or without this state and when the property is being transported to or from the established place of business, or when the transportation pertains to the buying or selling from a vehicle operated by an established place of business as defined in subdivision (1) of this section, or when the entire course of the transportation is for the purpose of delivery of the property subsequent to sale or trade thereof;

(iv) A person transporting property owned by him or her in a truck, tank truck, or other vehicle owned or leased by him or her, his or her agent, or employee, whether operated by him or her, his or her agent, or employee, when the property is loaded, pumped, or otherwise placed upon or into the vehicle from or at a warehouse, distributing station, or other established place of business owned, leased, or operated by such person, his or her agent, or employee, whether within or without this state, for sale, distribution, or delivery in the conduct of the established business;

(v) A person transporting property for his or her own consumption or use and not for sale, or to be processed by him or her;

(vi) A person authorized to operate as a common or contract carrier of property by motor vehicle under Part II of the Interstate Commerce Act [repealed] or the laws of this state, when operating in such for-hire capacity; or

(vii) A person using a motor vehicle whether operated by him or her or his or her agent for the transportation of dairy products, fruits, grains, vegetables, livestock, poultry, or other unprocessed agricultural products produced or fed within this state;

(5) "Motor vehicle" means any automobile, automobile trucks, truck, or any other self-propelled vehicle not operated or driven upon fixed rails or track. The term shall include as one (1) vehicle a tractor-semi-trailer or tractor-trailer combination;

(6) "Person" means a natural person, firm, partnership, association, corporation, trust, lessee, trustee, or receiver, as the context may require, regardless of the gender of the pronoun used in conjunction therewith; and

(7) "Sale", "sell", "buy", or any grammatical forms thereof mean barter, trade, or exchange, in addition to the usual and ordinary meanings of such terms. This definition shall not be construed to diminish the meanings of these words but shall extend such meanings.

**History.** Acts 1941, No. 138, § 2; A.S.A. 1947, § 84-2402; Acts 2019, No. 386, § 29. **Amendments.** The 2019 amendment repealed the definition of "Department".

### **17-49-203. Procedure for exemption.**

(a) No person shall be exempt from the requirements of this subchapter by reason of the provisions of § 17-49-202(4)(B) unless he or she or the driver of the motor vehicle upon which his or her property is



being transported shall, upon the request of any state, county, or township officer sworn to preserve the peace, sign and swear to under oath before some person authorized by the laws of this state to administer oaths and deliver to the officer a statement in writing clearly showing that the person claiming the exemption is entitled to one (1) or more of the exemptions provided in this section.

(b) The Department of Finance and Administration or its authorized agents, or any highway patrol officer, sheriff, or other peace officer, for the purpose of the enforcement of this subchapter, may administer oaths and take acknowledgments of the oaths.

(c) If the person claiming the exemption is not a natural person, the statement shall be signed and sworn to by some natural person authorized to act for it or the driver of the motor vehicle carrying the property. The statement shall not be sufficient unless it shall contain, in addition to any other necessary facts, the following of such facts as are material to the particular exemption claimed:

(1) The name of the person claiming the exemption and name of the person signing the statement;

(2) The business and residence addresses of both;

(3) Where and when the products described in § 17-49-202(4)(B)(ii) were produced or fed, the place where they are to be delivered if known, and the acreage operated by the person claiming the exemption;

(4) The location of the established place of business, how long there established, and whether the premises where located are owned or leased by the person claiming the exemption; and

(5) The kind of business there conducted.

(d) The officer receiving the statement shall promptly forward it to the department where it shall be filed and shall be a public record.

(e) Any person knowingly making any false, material statement in the statement shall be guilty of perjury and shall upon conviction be punished as provided by law.

**History.** Acts 1941, No. 138, § 2; A.S.A. in (b), deleted “duly” preceding “authorized”, and substituted “may” for “shall”  
1947, § 84-2402; Acts 2019, No. 386, § 30.

**Amendments.** The 2019 amendment, have authority to”.

## CHAPTER 50

### WATER WELL CONSTRUCTORS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. COMMISSION ON WATER WELL CONSTRUCTION.
3. CERTIFICATES, LICENSES, AND PERMITS.
4. ARKANSAS WATER WELL RIG CONFISCATION ACT.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

##### SECTION.

17-50-103. Definitions.

##### SECTION.

17-50-104. Violations.

## SECTION.

- 17-50-105. Criminal penalties.  
17-50-106. Alternative civil penalties.  
17-50-107. Scope.

## SECTION.

- 17-50-108. Exemptions — Limitations.  
17-50-109. Enforcement procedure.

**17-50-103. Definitions.**

As used in this chapter:

(1) “Abandoned water well” means a well whose use has been permanently discontinued or which is in such a state of disrepair that continued use for the purpose of obtaining ground water is impractical;

(2) “Apprentice” means a natural person who under the supervision of a registered pump installer or registered water well driller is obtaining the knowledge, skills, and abilities necessary to obtain a certificate of registration as a pump installer or water well driller;

(3) “Apprenticeship program” means a program developed by the Commission on Water Well Construction pursuant to § 17-50-312 to develop certain minimum knowledge, skills, or abilities in those natural persons desiring registration as pump installers or water well drillers;

(4) “Continuing education” means a program approved by the commission designed to provide certificate or license holders further knowledge, skills, or abilities in water well construction, pump installation, or related activities;

(5) “Heat pump circulating pipe” means pipes that circulate fluid in heat pump wells and are a part of heat pump well construction but are not considered pumping equipment;

(6)(A) “Heat pump wells” means any excavation that is drilled, redrilled, cored, bored, washed, driven, dug, jetted, or otherwise artificially constructed for the purpose of obtaining or exchanging geothermal energy for use with ground water source air conditioning or heat pump systems.

(B) The excavation may have pipes installed inside the excavation to circulate or discharge various fluids for the use and purpose set out in this subdivision (6), and the well may or may not be backfilled after excavation;

(7) “Person” means any natural person, partnership, association, business trust, and public or private corporation;

(8) “Pitless adapter” means an underground or above-ground discharge assembly that attaches directly to the well casing and extends the casing above the ground surface, providing a watertight subsurface connection for conducting water from the well, sealing out contaminants, protecting the water from temperature extremes, and providing access to the pump or other systems within the well;

(9) “Pump installer” means any natural person who engages for compensation in pump installation or repair and who is authorized to plug abandoned water wells and to install pitless adapters;

(10)(A) “Pumping equipment” means all machinery and parts of pumps such as deep well turbine pumps with right angle gear drive, vertical hollow shaft motors, jet pumps and motors, submersible



pumps and motors, and other parts and fittings installed or attached to the well.

(B) "Pumping equipment" shall exclude cooling units, horizontal electric motors, heat pump circulating pipe, and stationary diesel or gas engines;

(11) "Repair" means any action which results in a breaking, opening, or replacement of a well seal or cap;

(12) "Rig" means any power-driven, percussion, rotary, digging, jetting, direct push, vibrating, hydrofracturing, or augering machine used in the construction, alteration, repair, or abandonment of water wells, or any hoist or machine used in installing or removing pumps from wells with a lifting capacity of one thousand pounds (1,000 lbs.) or more;

(13)(A) "Water well" means any excavation that is drilled, redrilled, cored, bored, washed, driven, dug, jetted, or otherwise artificially constructed for the purpose of locating, acquiring, diverting, or artificially recharging ground water.

(B)(i) "Water well" also includes excavations made for the purpose of exchanging the geothermal energy found in the earth as defined in subdivision (6) of this section.

(ii) "Water well" does not include an excavation made for the purpose of:

(a) Obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying;

(b) Inserting media to repressure oil or natural gas-bearing formations; or

(c) Storing petroleum, natural gas, or other products;

(14) "Water well contractor" means any person who engages in the business of well construction or pump installation or repair, exclusive of surveying or other acts preparatory to the construction of a water well;

(15) "Water well driller" means any natural person who engages for compensation in well construction in this state; and

(16) "Well construction" means the act of setting up the rig for and engaging in the excavation of a water well, the modification of the borehole, the setting or removal of casing up to the point of installing or repairing pumping equipment, and plugging abandoned water wells.

**History.** Acts 1969, No. 641, § 3; 1985, No. 822, § 1; A.S.A. 1947, § 21-2003; Acts 1987, No. 693, § 2; 2001, No. 1184, § 1; 2003, No. 297, § 1; 2019, No. 386, § 31.

**Amendments.** The 2019 amendment repealed the definition of "Commission".

## 17-50-104. Violations.

(a) It shall be unlawful and a violation of this chapter, unless exempted under the provisions of § 17-50-107(b) and § 17-50-108(b), for:

(1) Any person to engage in well construction or pump installation unless the work is performed under the supervision of an individual

certified by the Commission on Water Well Construction in the type of work done;

(2)(A) Any water well contractor to fail to deliver a report on well construction to the commission within ninety (90) days after completion of well construction.

(B) The report on well construction shall contain such information as may be requested by appropriate rules of the commission and shall be upon forms supplied by the commission;

(3) Any person to install, construct, repair, or alter a water well or pumping equipment which is not in compliance with appropriate rules or is a health hazard;

(4) A person to operate a rig without a permit as prescribed in § 17-50-310; or

(5) A person to enter into a contract for well construction or pump installation or hold himself or herself out in the business as a water well contractor without posting bond or bond fee and holding a license as provided in §§ 17-50-304 — 17-50-309.

(b) Every day or any part of a day in which a violation occurs shall constitute a separate offense.

**History.** Acts 1969, No. 641, § 12; A.S.A. 1947, § 21-2012; Acts 1987, No. 693, § 7; 1999, No. 69, § 1; 2001, No. 1184, § 2; 2003, No. 297, § 2; 2019, No. 315, §§ 1475, 1476.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (a)(2)(B) and in (a)(3).

### 17-50-105. Criminal penalties.

(a) Any person who violates § 17-50-104 shall be guilty of a Class A misdemeanor.

(b) Any person who violates any other provision of this chapter, rules issued under this chapter, or order pursuant to this chapter shall be guilty of a Class B misdemeanor.

(c) Every day, or any part of a day, in which the violation occurs shall constitute a separate offense.

(d) Any person found guilty of a Class A or Class B misdemeanor for violation of any provision of this chapter who continues to engage in the behavior or activity giving rise to violation shall be guilty of a Class D felony for the second or any subsequent offense.

(e) Persons described in this section may be arrested by any sheriff, constable, chief of police, or other law enforcement officer of this state or any political subdivision of this state.

**History.** Acts 1969, No. 641, § 18; A.S.A. 1947, § 21-2018; Acts 2003, No. 297, § 3; 2019, No. 315, § 1477.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b).

### 17-50-106. Alternative civil penalties.

(a) Whenever the Commission on Water Well Construction, after a hearing conducted in accordance with the Arkansas Administrative



Procedure Act, § 25-15-201 et seq., finds that a person has violated the provisions of this chapter or any rules promulgated by the commission pursuant to the authority granted in this chapter, the commission shall have the power and authority to impose a civil penalty on the person in lieu of prosecuting the person under § 17-50-105.

(b) If a person against whom a civil penalty has been imposed by the commission, as authorized in this section, fails to pay the penalty to the commission, the commission may file action in the Pulaski County Circuit Court to collect the civil penalty.

(c) If the commission prevails in the action, the defendant shall be directed to pay, in addition to the civil penalty, reasonable attorney's fees and costs of the commission for prosecuting the action.

(d) No civil penalty shall be assessed by the commission against any person if that person is prosecuted under § 17-50-105.

(e) The commission shall not assess a civil penalty in excess of two thousand five hundred dollars (\$2,500) per offense.

**History.** Acts 1981, No. 521, § 3; A.S.A. 1947, § 21-2018.1; Acts 2003, No. 297, § 4; 2019, No. 315, § 1478.

**Amendments.** The 2019 amendment deleted "or regulations" following "rules" in (a).

### 17-50-107. Scope.

(a) No person shall construct, repair, or abandon, or cause to be constructed, repaired, or abandoned, any water well without complying with the provisions of this chapter and the rules adopted pursuant to it.

(b) The provisions of this chapter and rules adopted pursuant to it shall not be construed to repeal the provisions of any other law or ordinance of any municipality establishing standards with respect to water well drilling or pump installation and shall prevail concurrently with such other law or ordinance.

**History.** Acts 1969, No. 641, §§ 4, 20; A.S.A. 1947, §§ 21-2004, 21-2020; Acts 2019, No. 315, § 1479.

**Amendments.** The 2019 amendment deleted "and regulations" following "rules" in (a) and (b).

### 17-50-108. Exemptions — Limitations.

(a) Where the Commission on Water Well Construction finds that compliance with all requirements of this chapter would result in undue hardship, an exemption from any one (1) or more such requirements may be granted by the commission to the extent the exemption can be granted without impairing the intent and purpose of this chapter.

(b)(1) This chapter or any rule or order issued under this chapter does not prevent a person who has not obtained a license under § 17-50-304 from constructing, altering, or repairing a water well or installing or repairing a pump or pumping equipment for use by him or her on his or her own land.

(2) This chapter does not apply to any person owning, operating, and maintaining on May 27, 1969, any water well unless it constitutes a public health hazard.

(c)(1)(A) A water well in existence on May 27, 1969, is not required to conform to § 17-50-205 or any rules adopted under § 17-50-205.

(B) However, any water well abandoned or repaired, including any water well deemed to have been abandoned, as defined in this chapter, shall be brought into compliance with the requirements of this chapter and applicable rules with respect to abandonment of water wells.

(2) Any water well supplying water which is determined by the commission to be a health hazard must comply with the provisions of this chapter and applicable rules within a reasonable time after notification of the determination has been given.

(d) This chapter does not apply to any distribution of water beyond the point of discharge from any storage or pressure tank, or beyond the point of discharge from the pump if no tank is employed, nor to any water well, pump, or other equipment used temporarily for dewatering purposes.

(e) A county, municipality, or other political subdivision of the state engaged in well drilling shall be exempt from paying the license or rig fees for the operations performed for the political subdivision by employees of and with equipment owned by the governmental entity.

**History.** Acts 1969, No. 641, §§ 4, 8, 13, 19; A.S.A. 1947, §§ 21-2004, 21-2008, 21-2013, 21-2019; Acts 1987, No. 693, §§ 8, 9; 1993, No. 328, § 3; 1993, No. 348, § 3; 2019, No. 315, §§ 1480, 1481; 2019, No. 386, § 32.

**Amendments.** The 2019 amendment by No. 315 deleted “regulation” following “rule” in the first sentence of (b) (now (b)(1)); deleted “or regulations” following “rules” in (c)(1)(A) and (c)(1)(B); and deleted “and regulations” following “rules” in (c)(2).

The 2019 amendment by No. 386 redesignated (b) as (b)(1) and (b)(2); in (b)(1), substituted “This chapter or any rule or order issued under this chapter does not prevent a person” for “Nothing in this chapter or any rule, regulation, or order pursuant to it shall prevent a person”; rewrote (c)(1)(A); deleted “or regulations” following “rules” in (c)(1)(B) and in (c)(2); and substituted “does not apply” for “shall not apply” near the beginning of (d).

### 17-50-109. Enforcement procedure.

Whenever the Commission on Water Well Construction has reasonable grounds for believing that there has been a violation of this chapter or any rule adopted pursuant to this chapter, the commission may enforce compliance in the following manner:

(1) The commission shall give written notice to the person or persons alleged to be in violation;

(2) The notice shall identify the provisions of this chapter or rule issued hereunder alleged to be violated and the facts alleged to constitute the violation;

(3) The notice shall be served in the manner required by law for the service of process upon a person in a civil action or by an employee of



the commission and may be accompanied by an order of the commission requiring described remedial action which, if taken within the time specified in the order, will effect compliance with the requirements of this chapter and rules issued under this chapter;

(4) The order shall become final unless a written request for a hearing before the commission is made within ten (10) days from the date of service of the order; and

(5) In lieu of such an order, the commission may require the person or persons named in the notice to appear at a hearing, at a time and place specified in the notice, after which an appropriate remedial order may issue.

**History.** Acts 1969, No. 641, § 16; A.S.A. 1947, § 21-2016; Acts 2003, No. 297, § 5; 2019, No. 315, § 1482.

**Amendments.** The 2019 amendment

deleted “or regulation” following “rule” in the introductory language; substituted “rule” for “regulation” in (2); and made a similar change near the end of (3).

## SUBCHAPTER 2 — COMMISSION ON WATER WELL CONSTRUCTION

### SECTION.

- 17-50-201. Creation — Members.
- 17-50-202. Employees.
- 17-50-203. Office.
- 17-50-204. Powers and duties.
- 17-50-205. Inspections.

### SECTION.

- 17-50-206. Disposition of funds.
- 17-50-207. Injunctions — Liability of members.
- 17-50-209. Investigations.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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### 17-50-201. Creation — Members.

(a) There is created a Commission on Water Well Construction which shall exercise its duties as provided by this chapter.

(b) The commission shall consist of seven (7) members, composed of:

- (1) The Secretary of the Department of Health or his or her designated representative;
- (2) The Secretary of the Department of Agriculture or his or her designated representative;

(3)(A) One (1) person engaged in the business of manufacturing, distributing, or supplying heat pumps which require heat pump wells.

(B) The person shall be recommended by the Arkansas Heat Pump Association or the EnviroEnergy Group, Inc. or another groundwater source industry association.

(C) The person shall be a licensed HVACR contractor under § 17-33-101 et seq., and shall be appointed by the Governor and confirmed by the Senate; and

(4)(A) Four (4) persons who are, by trade, water well drillers.

(B) The water well drilling members shall be:

(i) Two (2) water well drillers whose principal place of business is southeast of the fall line in Arkansas, and who are actively engaged in the construction of water wells and pump installation in the Mississippi Embayment or Gulf Coastal Plain as represented on the geologic map of Arkansas; and

(ii) Two (2) water well drillers whose principal place of business is northwest of the fall line in Arkansas and who are actively engaged in the construction of water wells and pump installation business in the Ozark Region, Arkansas River Valley, or Ouachita Mountain Region as represented on the geologic map of Arkansas.

(C) These members shall be appointed by the Governor and confirmed by the Senate and shall be certified under the provisions of §§ 17-50-301 and 17-50-302.

(D) No person may be appointed as a water well driller member of the commission unless his or her principal place of business is at least twenty (20) miles in a straight line from any other water well driller members.

(c) Terms of office shall commence on January 15 and shall end on January 14 of the fifth year following the year in which the term commenced.

(d) Any vacancies arising on the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, to be effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(e) The five (5) business and trade members of the commission may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

**History.** Acts 1969, No. 641, § 5; 1979, No. 80, § 1; A.S.A. 1947, § 21-2005; Acts 1995, No. 840, § 1; 1997, No. 250, § 152; 2019, No. 910, § 106.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Health" for "Director of the Department of Health" in (b)(1), and substituted "Secretary of the Department of Agriculture" for "Executive Director of the Arkansas Natural Resources Commission" in (b)(2).

## 17-50-202. Employees.

The Commission on Water Well Construction may:



(1) Allocate funds to the Department of Agriculture to employ an executive secretary who shall be an employee of the department;

(2) Contract for legal and engineering services necessary to perform its powers and duties under the provisions of this chapter and fix their salaries within such limitations as may be provided by law; and

(3) Allocate funds to the department to provide legal and engineering services necessary to perform the powers and duties of the commission under the provisions of this chapter.

**History.** Acts 1969, No. 641, § 5; 1979, No. 80, § 1; A.S.A. 1947, § 21-2005; Acts 2019, No. 910, § 107.

**Amendments.** The 2019 amendment substituted “may for “shall” in the introductory language; rewrote (1); substituted “Contract for legal and engineering ser-

vices necessary to perform its powers” for “Hire such other employees and contract for such legal and engineering services as may be necessary to perform its powers” at the beginning of (2); added (3); and made stylistic changes.

### 17-50-203. Office.

The Department of Agriculture or the department’s designee shall house the office of the Commission on Water Well Construction.

**History.** Acts 1969, No. 641, § 5; 1979, No. 80, § 1; A.S.A. 1947, § 21-2005; Acts 2019, No. 910, § 108.

**Amendments.** The 2019 amendment rewrote the section.

### 17-50-204. Powers and duties.

(a) The Commission on Water Well Construction shall be responsible for the administration of this chapter and shall adopt, and from time to time amend or repeal, necessary rules governing the installation, construction, repair, and abandonment of water wells and pumping equipment. With respect thereto, the commission shall:

(1) Hold public hearings in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(2) Issue such orders and take such other actions as may be necessary to enforce the provisions of this chapter and the rules adopted pursuant thereto;

(3) Establish procedures and forms for the submission, review, approval, and rejection of applications, notifications, and reports required under this chapter;

(4) Prepare subject matter for examinations to test the knowledge and skills of:

(A) Water well drillers in the construction, alteration, and repair of water wells, including proper sealing and abandonment of water wells, and the rules of this chapter;

(B) Pump installers in the planning, installation, operation, and repair of pumping equipment and water wells including sealing and abandonment, pumping efficiency, and the rules of this chapter; and

- (C) Other persons who by trade install, alter, construct, or repair water wells and related equipment and who are eligible for license or certificate;
- (5) Adopt, amend, or repeal, and publish rules governing examinations;
- (6) Authorize the Department of Agriculture to:
  - (A) Hold examinations of applicants for certificates of registration at least one (1) time a year;
  - (B) Grade all tests and examinations for certificates of registration; and
  - (C) Issue licenses, permits, or certificates for the type or class of well construction or repair or pump installation; and
- (7) Perform such other duties as are consistent with the purposes of this chapter.
- (b) The commission may adopt and procure a seal for its official use.

**History.** Acts 1969, No. 641, §§ 5, 6; 1979, No. 80, § 1; A.S.A. 1947, §§ 21-2005, 21-2006; Acts 1987, No. 693, § 3; 1989, No. 748, § 1; 2019, No. 315, § 1483; 2019, No. 910, § 109.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the introductory lan-

guage of (a), (a)(2), (a)(4)(A), (a)(4)(B), and in (a)(5).

The 2019 amendment by No. 910 inserted the introductory language of present (a)(6); redesignated (a)(6) through (a)(8) as present (a)(6)(A) through (a)(6)(C); and redesignated (a)(9) as present (a)(7).

## 17-50-205. Inspections.

- (a) The Department of Agriculture is authorized to inspect any water well or abandoned water well. Department employees may at reasonable times enter upon, and shall be given access to, any premises for the purpose of inspection.
- (b) Upon the basis of such inspections, if the Commission on Water Well Construction finds that applicable laws or rules have not been complied with or that a health hazard exists, the commission shall disapprove the water well. If disapproved, no water well shall thereafter be used until brought into compliance and any health hazard is eliminated.
- (c) Any person aggrieved by the disapproval of a water well shall be afforded the opportunity of a hearing before the commission.

**History.** Acts 1969, No. 641, § 7; A.S.A. 1947, § 21-2007; Acts 2019, No. 315, § 1484; 2019, No. 910, § 110.

**Amendments.** The 2019 amendment by No. 315 substituted “applicable laws or rules” for “applicable laws, rules, or regulations” in the first sentence of (b).

The 2019 amendment by No. 910, in (a), substituted “Department of Agriculture”

for “Commission on Water Well Construction” and “Department employees” for “Authorized representatives of the commission”; and substituted “Commission on Water Well Construction” for “commission” in (b).



17-50-206. Disposition of funds.

All fees, civil penalties, or payments of any type collected by the Commission on Water Well Construction under this chapter shall be deposited into one (1) or more banks qualifying for the deposit of public funds to be used by the commission for the proper administration of this chapter. The deposits shall be audited under the rules prescribed by the Department of Finance and Administration.

**History.** Acts 1969, No. 641, § 15; 1981, No. 521, § 4; A.S.A. 1947, §§ 21-2015, 21-2018.2; Acts 2019, No. 315, § 1485. **Amendments.** The 2019 amendment deleted “and regulations” following “rules” in the second sentence.

17-50-207. Injunctions — Liability of members.

- (a) The Commission on Water Well Construction is authorized to seek in a court of competent jurisdiction an injunction, whether permanent or temporary, upon affidavit to prevent any person, business, corporation, or other legal entity from violating any provisions of this chapter or any rule promulgated by the commission under the authority of this chapter. Such injunctions shall be issued without bond.
- (b) The issuance of any injunction shall not preclude any criminal prosecution for violations of this chapter.
- (c) The members of the commission, when acting in good faith, shall not be personally liable for any proceedings taken under this chapter.

**History.** Acts 1989, No. 748, § 1; 2019, No. 315, § 1486. **Amendments.** The 2019 amendment deleted “or regulation” following “rule” in the first sentence of (a).

17-50-209. Investigations.

When engaged in any investigation, any employee of the Department of Agriculture shall have the power to administer oaths and to take depositions of persons relevant to any investigations for violations of this chapter.

**History.** Acts 1989, No. 748, § 1; 2019, No. 910, § 111. **Amendments.** The 2019 amendment substituted “Department of Agriculture” for “Commission on Water Well Construction”.

SUBCHAPTER 3 — CERTIFICATES, LICENSES, AND PERMITS

SECTION.	SECTION.
17-50-301. Certificate — Applicant qualifications.	17-50-308. License — Suspension and revocation.
17-50-305. License — Application and issuance.	17-50-309. Bond.

**17-50-301. Certificate — Applicant qualifications.**

(a) Upon proper application to the Commission on Water Well Construction, a person is entitled to be registered and to be issued a certificate of registration as a certified water well driller or certified pump installer who shall furnish to the commission proof that he or she:

- (1) Is at least eighteen (18) years of age;
- (2) [Repealed.]
- (3) Has knowledge of the rules adopted under this chapter; and
- (4)(A) Has experience as defined by the commission's rules in the work for which he or she is applying for a certificate of registration.

(B) An applicant may satisfy the requirement under subdivision (a)(4)(A) of this section by:

- (i) Completing the commission's apprenticeship program;
- (ii) Holding a valid certificate of registration from the commission, within the past ten (10) years, of the type and class for which the applicant is applying; or
- (iii) Providing a valid certificate from another state of a type and class substantially similar to the type and class for which the applicant is applying for the period of time equal to the requirement for the apprenticeship program.

(b) The commission shall provide examinations and a course of instruction, when required, that each applicant must pass in order to qualify for the certificate of registration.

**History.** Acts 1969, No. 641, § 10; 297, § 6; 2013, No. 324, § 1; 2019, No. 1981, No. 521, § 1; A.S.A. 1947, § 21-990, § 56.

2010; Acts 1987, No. 693, § 4; 1993, No. 328, § 1; 1993, No. 348, § 1; 1993, No. 1219, § 13; 2001, No. 1184, § 3; 2003, No. **Amendments.** The 2019 amendment repealed (a)(2).

**17-50-305. License — Application and issuance.**

(a)(1) The Commission on Water Well Construction may adopt, and from time to time amend or repeal, rules governing applications for water well contractor licenses.

(2) The commission shall license as a water well contractor any person properly making application on a form prepared and furnished by the commission.

(b) Any person whose application for a license to engage in business as a water well contractor has been denied may request, and shall be granted, a hearing in the county where the complainant has his or her place of business before an appropriate officer of the commission.

(c) No application for a license issued pursuant to § 17-50-304 may be made within one (1) year after revocation thereof.

**History.** Acts 1969, No. 641, § 11; A.S.A. 1947, § 21-2011; Acts 1987, No. 693, § 5; 1995, No. 1296, § 66; 2003, No. 297, § 9; 2019, No. 315, § 1487. **Amendments.** The 2019 amendment deleted "and regulations" following "rules" in (a)(1).



**17-50-308. License — Suspension and revocation.**

(a) Whenever the Commission on Water Well Construction, after notice and hearing, determines that the holder of a license issued pursuant to this subchapter has violated any provision of this chapter or any rule adopted pursuant to it, the commission is authorized to suspend or revoke the license.

(b) The commission shall serve any order issued pursuant to this section upon the licensee by:

- (1) Certified mail with return receipt requested; or
- (2) Personal service.

(c) Any such order shall become effective upon return of receipt to the commission.

(d) Any person aggrieved by any order issued after the hearing may appeal within thirty (30) days to the circuit court of the county where that person resides or to the Pulaski County Circuit Court.

**History.** Acts 1969, No. 641, § 11; A.S.A. 1947, § 21-2011; Acts 2003, No. 297, § 11; 2019, No. 315, § 1488.

**Amendments.** The 2019 amendment deleted “or regulation” following “rule” in (a).

**17-50-309. Bond.**

(a) All water well contractors shall abide by the licensing laws of Arkansas and shall post a water well contractor’s bond.

(b) The Commission on Water Well Construction shall establish and promulgate rules establishing the amount of water well contractor’s bonds based on a water well contractor’s past performance or violations of the rules of this chapter, construction methods, type or class of construction, and business practices.

(c) In no instance shall this bond be less than ten thousand dollars (\$10,000) unless exempted by other provisions of this chapter.

**History.** Acts 1969, No. 641, § 11; 1981, No. 521, § 2; A.S.A. 1947, § 21-2011; Acts 1987, No. 693, § 6; 2003, No. 297, § 12; 2019, No. 315, § 1489.

**Amendments.** The 2019 amendment deleted “and regulations” following the second occurrence of “rules” in (b).

**SUBCHAPTER 4 — ARKANSAS WATER WELL RIG CONFISCATION ACT****SECTION.****17-50-403. Definitions.****17-50-403. Definitions.**

As used in this subchapter:

(1) “Contraband property” means property of any nature, including personal, tangible, or intangible, but not real property, that is used or intended to be used in violation of § 17-50-104;

(2)(A) “Pumping equipment” means all machinery and parts of pumps such as deep well turbine pumps with right angle gear drive, vertical hollow shaft motors, jet pumps and motors, submersible

pumps and motors, and other parts and fittings installed or attached to the well.

(B) “Pumping equipment” does not include cooling units, horizontal electric motors, heat pump circulating pipe, and stationary diesel or gas engines;

(3) “Rig” means any power-driven, percussion, rotary, digging, jetting, direct push, vibrating, hydrofracturing, or augering machine used in the construction, alteration, or abandonment of water wells, or any hoist or machine used in installing or removing pumps from wells with the lifting capacity of one thousand pounds (1,000 lbs.) or more; and

(4)(A) “Water well” means any excavation that is drilled, redrilled, cored, bored, washed, driven, dug, jetted, or otherwise artificially constructed for the purpose of locating, acquiring, diverting, or artificially recharging ground water.

(B)(i) “Water well” includes excavations made for the purpose of exchanging the geothermal energy found in the earth as heat pump wells as defined in § 17-50-103.

(ii) “Water well” does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying, or for inserting media to repressure oil or natural gas-bearing formations, or for storing petroleum, natural gas, or other products.

**History.** Acts 2003, No. 855, § 1; 2019, No. 386, § 33.

**Amendments.** The 2019 amendment repealed the definition of “Commission”.

CHAPTER 51

WATERWORKS OPERATORS

- SUBCHAPTER.
1. GENERAL PROVISIONS.

2. LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.	SECTION.
17-51-101. Definitions.	mittee — Creation —
17-51-102. Penalties.	Members.
17-51-103. Powers and duties of the board.	17-51-105. Drinking Water Advisory and Operator Licensing Committee — Duties.
17-51-104. Drinking Water Advisory and Operator Licensing Com-	17-51-106. Fees.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and



classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

## **17-51-101. Definitions.**

As used in this chapter:

(1) "Community public water system" means any public water system which serves at least fifteen (15) connections or twenty-five (25) persons who are year-round residents;

(2) "Drinking Water Operator Certification Program" means those activities conducted by the Department of Health and the Drinking Water Advisory and Operator Licensing Committee related to the training, examination, and licensing and certification of public water system operators;

(3) "Late renewal" means an application for renewal when the application for renewal or the associated fee is received more than thirty (30) days following the beginning of a renewal period;

(4) "Noncommunity public water system" means a public water system that serves fifteen (15) service connections or twenty-five (25) persons, at least sixty (60) days per year, that is not a community public water system;

(5) "Nontransient noncommunity public water system" means a public water system that is not a community public water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year;

(6) "Public water system" means all sources and their surroundings from which water is derived for drinking or domestic purposes by the public, and all structures, conduits, and appurtenances in connection therewith by which water for such use is obtained, treated, conditioned, stored, and delivered to consumers;

(7) "Treatment" means the application of physical processes or the addition of chemicals, or both, to water which a public water system provides to the public for the purpose of improving the quality of the water, except that the addition of gaseous chlorine, sodium hypochlorite, or calcium hypochlorite alone shall not be defined as treatment; and

(8) "Water system operator" means any person who, during the performance of his or her regular duties at a community public water system, a nontransient noncommunity public water system, or any other noncommunity public water system which utilizes a surface water or surface water-influenced source, exercises individual judgment by which, either directly or indirectly, the safety, quality, and quantity of water delivered from the water system might be affected.

**History.** Acts 1957, No. 333, § 2; A.S.A. 1947, § 71-1702; Acts 1991, No. 1001, § 1; 1997, No. 494, § 1; 2019, No. 386, §§ 34, 35.

**Amendments.** The 2019 amendment repealed the definitions of “Board”, “Committee”, and “Department”.

### 17-51-102. Penalties.

(a)(1) Any person or persons representing a firm, corporation, municipality, or other political authority who violate any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than thirty (30) days, or by both fine and imprisonment.

(2) Each day during which a violation continues shall be a separate offense.

(b)(1) Every firm, person, or corporation that violates this chapter or any of the rules issued or promulgated by the State Board of Health, or that violates any condition of a license, permit, certificate, or any other type of registration issued by the board, may be assessed a civil penalty by the board.

(2) The penalty shall not exceed one thousand dollars (\$1,000) for each violation.

(3) Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

(c) All fines collected under this section shall be deposited into the State Treasury and credited to the Waterworks Operators Licensing Fund to be used to defray the costs of administering this chapter.

(d) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer of the Department of Health is authorized to transfer all unexpended funds relative to fines collected under this section, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

**History.** Acts 1957, No. 333, § 13; A.S.A. 1947, § 71-1713; Acts 1991, No. 1001, § 1; 1995, No. 787, § 1; 2019, No. 315, §§ 1490, 1491.

**Amendments.** The 2019 amendment deleted “or regulations” following “rules” in (b)(1) and made a similar change in (d).

### 17-51-103. Powers and duties of the board.

(a) The State Board of Health shall have the authority to:

- (1) Adopt rules in accordance with this chapter as may be necessary for the administration and enforcement of this chapter;
- (2) Set fees to cover the cost of the administration of this chapter;
- (3) Revoke a water system operator’s license for cause; and
- (4) Establish minimum educational standards for all applicants for licensure.

(b) All rules promulgated pursuant to this chapter shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the



Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

**History.** Acts 1957, No. 333, §§ 3, 4; A.S.A. 1947, §§ 71-1703, 71-1704; Acts 1991, No. 1001, §§ 1, 2; 1997, No. 179, § 12; 2019, No. 315, §§ 1492, 1493.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (a)(1) and (b).

#### **17-51-104. Drinking Water Advisory and Operator Licensing Committee — Creation — Members.**

(a)(1) There is created the Drinking Water Advisory and Operator Licensing Committee to consist of seven (7) members to be appointed by the State Board of Health.

(2) One (1) shall be a member of the staff of the Engineering Section of the Department of Health who shall be a registered engineer and who shall act as executive secretary for the board for water system operator licensing activities, and also act as executive secretary for the committee.

(3) One (1) shall be an engineer on the teaching staff of any state-supported institution of higher education who shall be either a sanitary engineer, civil engineer, environmental engineer, or chemical engineer with expertise in the drinking water field.

(4) Four (4) members shall be active water system operators who shall hold the highest grade licenses.

(5) One (1) member shall be a consulting engineer specializing in drinking water systems design.

(b) Each regular appointment shall be for a term of six (6) years, provided that no person shall be appointed to serve more than one (1) full six-year term.

(c) In the event of a vacancy, a new member shall be appointed by the board to serve out the unexpired term.

(d) A member of the committee may be removed for cause only after the board has made an investigation at which the accused has had an opportunity to defend himself or herself against any and all charges.

(e) The committee shall serve without remuneration but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) All members of the committee shall be residents of the State of Arkansas.

(g) The member of the committee who is a member of the staff of the Engineering Section of the Department of Health shall serve at the pleasure of the Secretary of the Department of Health.

**History.** Acts 1957, No. 333, § 9; A.S.A. 1947, § 71-1709; Acts 1991, No. 1001, § 1; 1997, No. 250, § 153; 1997, No. 494, § 2; 2019, No. 910, § 4864.

**Amendments.** The 2019 amendment substituted “Secretary of the Department of Health” for “Director of the Department of Health” in (g).

**17-51-105. Drinking Water Advisory and Operator Licensing Committee — Duties.**

The duties of the Drinking Water Advisory and Operator Licensing Committee shall be as follows:

- (1) To assist the Department of Health in examining applicants for water system operator licenses;
- (2) To advise the department as to the fitness of the applicant for licensing and certification;
- (3) To advise the State Board of Health in cases of suspension or revocation of license;
- (4) To advise the board and department in all matters, upon request by the board or department, or upon its own motion, relating to the operations of, and the development of rules for, the public water system supervision program operated by the Engineering Section of the Department of Health; and
- (5) To advise the board or department in all matters, upon request by the board or department, relating to training programs for water system operators.

**History.** Acts 1957, No. 333, § 10; A.S.A. 1947, § 71-1710; Acts 1991, No. 1001, § 1; 2019, No. 315, § 1494. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (4).

**17-51-106. Fees.**

- (a) The State Board of Health shall have the authority to:
  - (1) Set fees to cover only the cost of the administration of this chapter; and
  - (2) Establish fees for:
    - (A) Examination;
    - (B) Licensing;
    - (C) Renewal of license;
    - (D) Penalty for late renewal;
    - (E) Evaluation for reciprocity; and
    - (F) Temporary permit issuance or renewal.
- (b) Fees shall not exceed:
  - (1) Fifty dollars (\$50.00) for examination;
  - (2) Twenty-five dollars (\$25.00) for licensing;
  - (3) Fifty dollars (\$50.00) for renewal of licenses;
  - (4) Ten dollars (\$10.00) for penalty for late renewal;
  - (5) Fifty dollars (\$50.00) for evaluation for reciprocity; and
  - (6) Twenty-five dollars (\$25.00) for temporary permits or renewal of temporary permits.
- (c)(1) All fees collected under this chapter are declared special revenues and shall be deposited into the State Treasury to the credit of the Public Health Fund, and such moneys shall be expended only for the administration of this chapter.
- (2) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health



is authorized to transfer all unexpended funds relative to the Drinking Water Operator Certification Program that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose in any following fiscal year.

**History.** Acts 1957, No. 333, §§ 4, 5; A.S.A. 1947, §§ 71-1704, 71-1705; Acts 1991, No. 1001, § 1; 1997, No. 494, § 3; 2019, No. 315, § 1495.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (c)(2).

## SUBCHAPTER 2 — LICENSING

### SECTION.

17-51-201. License required.

### 17-51-201. License required.

(a) In order to safeguard the public health, all water system operators of community and certain noncommunity public water systems from which water is sold, distributed, or otherwise offered for human consumption, whether such water systems are publicly or privately owned and operated, shall be licensed and certified as competent by the Department of Health under the provisions of this chapter and under such rules as the State Board of Health may adopt under the provisions of this chapter.

(b) It shall be unlawful for any person, municipality, political subdivision, corporation, partnership, sole proprietorship, or any authority that furnishes water for domestic consumption to operate any type of community public water system, nontransient noncommunity public water system, or any other noncommunity public water system utilizing a surface water or surface water-influenced source, unless the water system operator in charge is duly licensed and certified competent by the department.

(c) It shall be unlawful for any person to perform the duties of a water system operator without being duly licensed or to falsely represent himself or herself as a licensed water system operator.

(d) It shall also be unlawful for any public or private official, not duly licensed, to attempt to influence the judgment of a licensed water system operator in matters where the public health may be involved unless this official is an authorized representative of the department.

**History.** Acts 1957, No. 333, §§ 1, 12; A.S.A. 1947, §§ 71-1701, 71-1712; Acts 1991, No. 1001, § 1; 1997, No. 494, § 4; 2019, No. 315, § 1496.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (a).

## CHAPTER 52

### HOME INSPECTORS

#### SUBCHAPTER.

#### 3. ARKANSAS HOME INSPECTORS REGISTRATION ACT.

#### SUBCHAPTER 3 — ARKANSAS HOME INSPECTORS REGISTRATION ACT

#### SECTION.

17-52-303. Definitions.

17-52-306. Powers and duties of the board.

17-52-308. Complaints and disciplinary procedures.

17-52-311. Role of Secretary of the Department of Labor and Licensing.

#### SECTION.

17-52-312. Fund.

17-52-313. Disposition of funds.

17-52-315. Application for registration.

17-52-316. Fees and reimbursements.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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#### 17-52-303. Definitions.

As used in this subchapter:

(1) “Applicant” means a person who is applying for registration or renewal of registration under this subchapter;

(2) “Client” means a person who engages the services of a home inspector for the purpose of obtaining inspection of and a written report on the condition of a residential unit;

(3) “Competency examination” means a written examination to establish whether an applicant possesses an adequate level of knowledge of home inspection procedures and components;

(4) “Home inspection” means a visual inspection of a residential unit and its attached carports and garages and the operation of the building’s systems by using the controls normally operated by the owner;

(5) “Home inspection report” means a written report prepared for a fee and issued by a home inspector to document the results of a home inspection;



(6) "Home inspector" means a person who engages in the business of performing home inspections for compensation and who in the pursuit of that business offers to inspect or inspects the condition of a private residence;

(7) "Person" means any natural person; and

(8) "Residential unit" means any dwelling from one (1) to four (4) units in design intended principally for residential purposes by one (1) or more persons.

**History.** Acts 2003, No. 1328, § 1;  
2019, No. 386, § 36.

**Amendments.** The 2019 amendment  
repealed the definition of "Board".

### **17-52-306. Powers and duties of the board.**

The Arkansas Home Inspector Registration Board may:

(1) Perform the duties and functions appropriate and necessary to carry out the provisions of this subchapter;

(2) Review, approve, or reject registration applications and issue registration certificates to applicants;

(3) Establish a mandatory continuing education program designed to upgrade the professional skills and knowledge of home inspectors practicing in Arkansas;

(4)(A) Establish administrative procedures for disciplinary proceedings conducted according to the provisions for this subchapter.

(B) The procedures shall include provisions for the suspension and revocation of registration and enforcement of civil penalties;

(5) Establish procedures for processing and resolving complaints against home inspectors conducting home inspections in Arkansas;

(6) Authorize disbursement of the funds collected into the Arkansas Home Inspectors Registration Fund;

(7) Employ legal counsel to represent it in any proceedings when legal counsel is required;

(8) Develop competency exams for home inspectors;

(9) Establish a standard of practice and code of ethics for home inspectors;

(10) Enter into agreements with other states, territories, districts, or possessions of the United States concerning registration or licensing requirements acceptable between Arkansas and the other entities;

(11) Maintain working files as it deems necessary;

(12) Contract for administrative support services and meet financial obligations of those contracts using moneys from the fund;

(13)(A) Develop and implement a means for conducting internet board meetings, which may be observed by the public in real time.

(B) Public participation in the meetings may be permitted in accordance with rules developed by the board;

(14) Establish and maintain an internet site devoted to home inspection registration and related subjects; and

(15) [Repealed.]

(16) Establish educational requirements for registration to begin after July 1, 2004, including the standards and procedures for approval

of educational programs if the maximum number of hours required shall not exceed ninety (90) classroom hours.

**History.** Acts 2003, No. 1328, § 1; of Labor and Licensing” for “Secretary of State” throughout (15)(A) and (B).  
2019, No. 910, § 5437; 2021, No. 492, § 1.

**Amendments.** The 2019 amendment substituted “Secretary of the Department The 2021 amendment repealed (15).

### 17-52-308. Complaints and disciplinary procedures.

(a) Disciplinary hearings conducted by the Arkansas Home Inspector Registration Board for the purpose of determining whether to levy civil penalties under this subchapter and for the purpose of determining whether to revoke or suspend any registration, license, or certificate issued under this subchapter shall be open public meetings conducted as provided for in the Freedom of Information Act of 1967, § 25-19-101 et seq., unless otherwise superseded by provisions of this subchapter.

(b) Upon its own motion or upon written complaint of any person and after notice and hearing as provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the board may suspend or revoke the registration of any home inspector and issue a fine up to one thousand dollars (\$1,000) per violation or occurrence or take any other appropriate disciplinary action for:

- (1) Any violation of the provisions in this subchapter;
- (2) Falsifying any application for registration or otherwise providing any false information to the board or the Secretary of State;
- (3) Conviction of any felony listed under § 17-3-102;
- (4) Any actions demonstrating untrustworthiness, incompetence, dishonesty, gross negligence, material misrepresentation, fraud, or unethical conduct in any dealings subject to this subchapter or these rules;
- (5) Adjudication of insanity;
- (6)(A) Use of advertising or solicitation that is false, misleading, or is otherwise deemed unprofessional by the board.

(B) All advertisements, contracts, correspondence, and other documents utilized by a home inspector shall prominently include the home inspector’s name and registration number as registered according to this subchapter; or

- (7) Habitual or excessive use of intoxicants or illegal drugs.

**History.** Acts 2003, No. 1328, § 1; The 2019 amendment by No. 990 deleted the (b)(3)(A) designation; in (b)(3), deleted “in any jurisdiction of a misdemeanor involving moral turpitude or” following “Conviction” and added “listed under § 17-3-102”; and deleted (b)(3)(B).  
2005, No. 2014, § 2; 2019, No. 315, § 1497; 2019, No. 990, § 57.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b)(4).



### 17-52-311. Role of Secretary of the Department of Labor and Licensing.

(a)(1) The Secretary of the Department of Labor and Licensing shall be the custodian of permanent, official, home inspector registration files and shall maintain permanent records of all home inspector registration applications received since the enactment of this subchapter.

(2) The secretary shall maintain the permanent records of the Arkansas Home Inspector Registration Board.

(b) The secretary shall receive and process applications for initial registration and renewal of registration.

**History.** Acts 2003, No. 1328, § 1; 2019, No. 910, § 5438. of Labor and Licensing” for “Secretary of State” in the section heading and (a)(1);

**Amendments.** The 2019 amendment substituted “Secretary of the Department and substituted “secretary” for “Secretary of State” in (a)(2) and (b).

### 17-52-312. Fund.

(a) There is created in the State Treasury a fund to be known as the “Arkansas Home Inspectors Registration Fund”.

(b) All funds, fees, charges, costs, and collections accruing to or collected under the provisions of this subchapter shall be deposited into the State Treasury to the credit of this fund.

(c) The funds shall be used for the purposes as specified in this subchapter.

(d)(1) Except as provided in subdivision (d)(2) of this section, effective with the 2003 registration and under the provisions of this subchapter, all funds, fees, charges, costs, and collections accruing to or collected by the Secretary of the Department of Labor and Licensing shall be deposited quarterly into the fund.

(2) [Repealed.]

(e) The Arkansas Home Inspector Registration Board will process disbursements of those funds as necessary in the administration of this subchapter.

**History.** Acts 2003, No. 1328, § 1; 2019, No. 910, § 5439; 2021, No. 492, § 2. of Labor and Licensing” for “Secretary of State” in (d)(1); and substituted “secretary” for “Secretary of State” in (d)(2).

**Amendments.** The 2019 amendment substituted “Secretary of the Department The 2021 amendment repealed (d)(2).

### 17-52-313. Disposition of funds.

(a)(1) The Secretary of the Arkansas Home Inspector Registration Board shall receive, disburse, and account for all income paid to or received by the Arkansas Home Inspector Registration Board.

(2) The Secretary of the Arkansas Home Inspector Registration Board shall institute a system of books and financial records satisfactory to the Secretary of the Department of Finance and Administration.

(3)(A) All fees collected on behalf of the board and all receipts of every kind and nature shall be paid into the State Treasury and shall be credited to the Arkansas Home Inspectors Registration Fund.

(B) The Arkansas Home Inspectors Registration Fund shall be for the general uses of the board, and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this subchapter.

(C) Expenditures from the Arkansas Home Inspectors Registration Fund shall be substantiated by vouchers and itemized statements at the end of each fiscal year or at any other time when demand is made by the Department of Finance and Administration.

(4) The Secretary of the Arkansas Home Inspector Registration Board shall deposit all funds of the board that he or she receives with the State Treasury within forty-eight (48) hours, excluding holidays and Sundays, after he or she receives the funds.

(b) All fines collected for the violation of any provisions of this subchapter shall be paid over to the board to be used by it in the same manner as funds received for the issuance of registration.

(c) The total amount of warrants issued by the board or Auditor of State in payment of the expenses and compensation provided in this subchapter shall not exceed the amount of the application, registration, and other fees collected.

(d)(1) Any surplus funds at the end of the fiscal year may be retained by the board for future expenditures.

(2) The board shall not be required to pay any surplus into the General Revenue Fund Account of the State Apportionment Fund.

**History.** Acts 2003, No. 1328, § 1; 2019, No. 910, §§ 3425, 3426.

**Amendments.** The 2019 amendment substituted "Secretary of the Arkansas Home Inspector Registration Board" for

"secretary" in (a)(2) and (a)(4); and substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(2).

### **17-52-315. Application for registration.**

(a) Any person applying for registration or renewal of registration as a home inspector shall submit to the Arkansas Home Inspector Registration Board:

(1) An application under oath upon a form to be prescribed by the board;

(2) A current certificate of insurance issued by an insurance company licensed or surplus lines approved to do business in this state that states that the applicant has procured general liability insurance in the minimum amount of one hundred thousand dollars (\$100,000) and, if applicable, workers' compensation insurance; and

(3) The required registration or registration renewal fee with the application.

(b)(1) A person applying for registration for the first time shall also submit with the application a certified copy of a document attesting to the successful completion of the competency examination.



(2) A person renewing a current registration shall also submit with his or her application a properly completed form that states that the person has satisfactorily completed continuing education requirements for the current year.

(3) A person seeking to renew a lapsed, suspended, or otherwise inactive registration shall provide other documents and comply with procedures as may be prescribed by the board.

(c) The following persons shall be exempt from any educational requirements for initial registration, but not from the requirements concerning the competency examination:

(1) City inspectors certified by the International Code Council; and

(2) Contractors who hold a builder's license and have ten (10) years' experience as a contractor.

**History.** Acts 2003, No. 1328, § 1; deleted "be of good moral character and shall" preceding "submit" in the introductory language of (a).  
2019, No. 990, § 58.

**Amendments.** The 2019 amendment

### 17-52-316. Fees and reimbursements.

(a)(1) The Arkansas Home Inspector Registration Board may set registration and renewal fees not to exceed three hundred dollars (\$300) per year.

(2) The board shall notify the Secretary of the Department of Labor and Licensing of the registration fee for the next year and by June 1 every year thereafter until transferred to the board.

(b) All moneys received under this subchapter shall be used to administer this subchapter.

(c) The board may make reasonable charges for materials provided by the board and for services performed in connection with providing materials.

(d) Other fees authorized to be assessed by the board are:

(1) Delinquent renewal fees not to exceed the amount of the renewal fee;

(2) Home inspector training or continuing education provider fees as follows:

(A) Initial qualifying fees not to exceed two hundred dollars (\$200);

(B) Annual renewal fees not to exceed two hundred dollars (\$200);

and

(C) Additional course filing fees not to exceed twenty-five dollars (\$25.00);

(3) Duplicate registration fees not to exceed twenty-five dollars (\$25.00);

(4) Returned check fees not to exceed twenty-five dollars (\$25.00);  
and

(5) Change-of-address fees not to exceed twenty-five dollars (\$25.00).

**History.** Acts 2003, No. 1328, § 1; in (a)(2), deleted "Within forty-five (45) days of the enactment of this section" from  
2019, No. 910, § 5440.

**Amendments.** The 2019 amendment, the beginning and substituted "Secretary

of the Department of Labor and Licensing” for “Secretary of State”.

## CHAPTER 53

### HEALTH EDUCATORS

#### SUBCHAPTER.

##### 1. GENERAL PROVISIONS.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

##### 17-53-106. Construction and applicability.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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##### 17-53-106. Construction and applicability.

(a) This chapter shall not be construed to limit the professional pursuits of:

(1) A health educator serving in the United States Armed Forces or the United States Public Health Service or employed by the United States Department of Veterans Affairs, provided that the person’s practice of health education is related to the person’s service or employment;

(2) A licensed physician, pharmacist, nurse, social worker, psychologist, psychological examiner, licensed professional counselor, dietician, dental hygienist, physical therapist, or occupational therapist if the person’s practice of health education is incidental to the practice of his or her profession, provided that those persons do not hold themselves out under the title of “certified health education specialist”, “certified professional health educator”, or “health educator”, unless so certified;

(3) Any person who has received a doctoral degree from an accredited United States college or university in or with a concentration in health education;



(4) A nonresident health educator practicing health education in this state if:

(A) The health education practice is limited to no more than one hundred eighty (180) consecutive working days; and

(B) The health educator:

(i) Is certified under the laws of another state that has certification requirements at least as stringent as the requirements of this state; or

(ii) Has met qualifications as specified in this chapter for the practice of health education;

(5) A teacher of health education in an elementary or secondary school who meets the certification requirements as set forth by the Division of Elementary and Secondary Education;

(6) A health educator who engages in the practice of health education in a hospital licensed by the State of Arkansas;

(7) Any occupational safety and health professional, such as an industrial hygienist, provided that such persons do not hold themselves out under the title of "certified health education specialist", "certified professional health educator", or "health educator", unless so certified; and

(8) Employees who work under the guidance of a licensed physician, provided that such persons do not hold themselves out under the title of "certified health education specialist", "certified professional health educator", or "health educator", unless so certified.

(b) Students may engage in the practice of health education, provided that such practice is performed under the supervision of a certified health education specialist or a certified professional health educator and is part of the academic requirements leading to a degree in or with a concentration in health education.

(c) Volunteers, staff, or agents working under the direction of a charitable organization registered with the office of the Attorney General or a nonprofit corporation may conduct health education-related activities, provided that such persons do not hold themselves out under the title of "certified health education specialist", "certified professional health educator", or "health educator", unless so certified.

(d) Employees of nursing homes may conduct health education-related activities, provided that such persons do not hold themselves out under the title of "certified health education specialist", "certified professional health educator", or "health educator" unless so certified.

(e) Community volunteers may conduct health education-related activities, provided that such persons do not hold themselves out under the title of "certified health education specialist", "certified professional health educator", or "health educator" unless so certified.

(f) When invited by school officials, parents or volunteers may conduct health education-related activities in private or public school classrooms or assemblies, provided that such persons do not hold themselves out under the title of "certified health education specialist", "certified professional health educator", or "health educator" unless so certified.

(g) This chapter is not intended to apply to foundations, state agencies, any other groups, and other professional boards and associations and their continuing education efforts.

**History.** Acts 1997, No. 1237, § 4; substituted "Division of Elementary and Secondary Education of the Department of Education" for "Department of Education" in (a)(5).  
2017, No. 540, § 23; 2019, No. 910, § 2242.

**Amendments.** The 2019 amendment

## CHAPTER 55

### ELECTRICAL INSPECTORS

#### SECTION.

17-55-101. Licensure of electrical inspectors.

17-55-102. Provisions applicable to electrical inspectors.

#### SECTION.

17-55-104. Disposition of funds.

17-55-105. Authority to charge fees for continuing education.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

#### 17-55-101. Licensure of electrical inspectors.

(a) A person employed as an electrical inspector in the State of Arkansas shall hold an electrical inspector license issued by the Board of Electrical Examiners of the State of Arkansas.

(b)(1) A person shall apply for licensure as an electrical inspector on a form approved by the board within thirty (30) days of employment as an electrical inspector.

(2) Applications shall be made to the board and shall contain:

(A) Proof of employment with the state or a political subdivision of the state as an electrical inspector in the State of Arkansas;

(B)(i) Verification of work experience as required by rule of the board.

(ii) Work experience shall include without limitation demonstrated knowledge of:

(a) The standard materials and methods used in the installation of electric equipment;



(b) Approved methods of construction to ensure the safety of persons and property; and

(c) The requirements of the statewide standards for the construction, installation, and maintenance of electrical facilities and the performance of electrical work under § 20-31-104; and

(C) Payment of a license fee as established by rule of the board that shall not exceed fifty dollars (\$50.00).

(c) An electrical inspector license:

(1) Shall expire on January 1 of each year; and

(2) May be renewed upon application to the board and submission of the following information:

(A) Proof of continued employment as an electrical inspector in the State of Arkansas;

(B) Payment of a renewal fee as established by rule of the board that shall not exceed fifty dollars (\$50.00); and

(C)(i) Proof of completion of at least sixteen (16) hours of continuing education.

(ii) The board shall promulgate rules to set standards for continuing education for licensees under subdivision (c)(2)(C)(i) of this section. The rules shall include without limitation continuing education on the statewide standards for the construction, installation, and maintenance of electrical facilities and the performance of electrical work under § 20-31-104.

(iii) The Division of Occupational and Professional Licensing Boards and Commissions may conduct or sponsor continuing education classes for electrical inspectors.

(d)(1) The board may revoke or suspend an electrical inspector's license for just cause subject to appeal and hearing before the board according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2)(A) A civil penalty may be assessed against an electrical inspector by the Division of Occupational and Professional Licensing Boards and Commissions and subject to appeal and hearing before the board according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., if it is determined that the electrical inspector has violated a:

(i) Provision of this chapter;

(ii) Rule or order issued or promulgated by the board; or

(iii) Condition of a license issued by the board.

(B) For each violation, the civil penalty shall not exceed the following:

(i) Two hundred fifty dollars (\$250) for a first offense;

(ii) Seven hundred fifty dollars (\$750) for a second offense; or

(iii) One thousand dollars (\$1,000) for a third offense.

(C) Each day of a continuing violation is a separate violation for purposes of penalty assessment.

(D) Assessment of a civil penalty by the board shall be made no later than two (2) years after the date of the occurrence of the violation.

(E) If an electrical inspector against whom a civil penalty has been imposed fails to pay the penalty within sixty (60) days of the board's decision, the Director of the Division of Occupational and Professional Licensing Boards and Commissions may file an action in a court of competent jurisdiction to collect the civil penalty without paying costs or giving bond for costs.

(F) Any penalties collected under this section shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Department of Labor and Licensing in carrying out the functions, powers, and duties of this chapter.

(e) If a person simultaneously holds an electrical inspector license and a license as a master electrician or a journeyman electrician, the person, when renewing his or her master electrician or journeyman electrician license, shall be exempt from the:

(1) Renewal fee under § 17-28-301; and

(2) Continuing education requirements for master electricians and journeyman electricians under § 17-28-311.

**History.** Acts 2013, No. 756, § 4; 2019, No. 315, § 1498; 2019, No. 910, §§ 5441-5443.

**Amendments.** The 2019 amendment by No. 315 deleted "regulation" following "Rule" in (d)(2)(A)(ii).

The 2019 amendment by No. 910 substituted "Division of Occupational and Professional Licensing Boards and Commission of the Department of Labor and

Licensing" for "Department of Labor" in (c)(2)(C)(iii) and (d)(2)(E); substituted "Division of Occupational and Professional Licensing Boards and Commission" for "department" in (d)(2)(A); and, in (d)(2)(F), substituted "Department of Labor and Licensing Special Fund" for "Department of Labor Special Fund" and substituted "Department of Labor and Licensing" for "department".

## **17-55-102. Provisions applicable to electrical inspectors.**

(a)(1) Licensure as an electrical inspector does not qualify a person to act as an electrician under § 17-28-101 et seq.

(2)(A) This chapter shall not require an individual to hold a license before doing electrical work on his or her primary residence except as otherwise required by state law, rules, or local ordinances.

(B) The exemption from compliance with the licensing standards shall not be referred to in any way and shall not be evidence of the lack of negligence or the exercise of due care by a party at a trial of any civil action to recover damages by any party.

(b) A person licensed as an electrical inspector under this chapter shall not inspect electrical work that he or she:

(1) Installed; or

(2) Supervised.

(c)(1) Except as provided in subdivisions (c)(2) and (3) of this section, a person licensed as an electrical inspector shall conduct inspections only within the political subdivision employing the inspector.

(2) If a person licensed as an electrical inspector is employed by more than one (1) political subdivision, he or she may conduct inspections



within any of the political subdivisions employing the person as an electrical inspector.

(3) A person employed by the state as an electrical inspector may conduct inspections anywhere within the State of Arkansas.

(d) This chapter and § 17-28-202, § 17-28-301(b), and § 17-28-305 shall not prohibit a person licensed as an electrical inspector or an electrician from performing work free of charge on his or her own properties, properties of family members, or for a nonprofit charity if the person holds the requisite license for the work performed free of charge.

**History.** Acts 2013, No. 756, § 4; 2019, No. 315, § 1499. deleted “regulations” following “rules” in (a)(2)(A).

**Amendments.** The 2019 amendment

### 17-55-104. Disposition of funds.

All funds received by the Board of Electrical Examiners of the State of Arkansas under this chapter shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Department of Labor and Licensing in carrying out the functions, powers, and duties as set out in this chapter, § 17-28-101 et seq., and the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and to defray the costs of the maintenance, operation, and improvements required by the department in carrying out the functions, powers, and duties otherwise imposed by law on the Secretary of the Department of Labor and Licensing.

**History.** Acts 2013, No. 756, § 4; 2019, No. 910, § 5444.

**Amendments.** The 2019 amendment substituted “Department of Labor and Licensing Special Fund” for “Department of Labor Special Fund”, substituted “Depart-

ment of Labor and Licensing” for “Department of Labor”, and substituted “Secretary of the Department of Labor and Licensing” for “Director of the Department of Labor”.

### 17-55-105. Authority to charge fees for continuing education.

(a) The Department of Labor and Licensing may charge fees for continuing education classes that it conducts or sponsors for electrical inspectors.

(b) Fees under subsection (a) of this section shall be established by rule of the Board of Electrical Examiners of the State of Arkansas.

**History.** Acts 2013, No. 756, § 4; 2019, No. 910, § 5445.

substituted “Department of Labor and Licensing” for “Department of Labor” in (a).

**Amendments.** The 2019 amendment

**CHAPTER 56**  
**ARKANSAS PAWNBROKER ACT**

**[Repealed.]**

SECTION.  
17-56-101 — 17-56-202. [Repealed.]

**17-56-101 — 17-56-202. [Repealed.]**

**Publisher's Notes.** This chapter, concerning the Arkansas Pawnbroker Act, was repealed by Acts 2021, No. 491, § 1, effective July 28, 2021. The chapter was derived from the following sources:

17-56-101. Acts 2017, No. 985, § 1.	17-56-102. Acts 2017, No. 985, § 1.
	17-56-103. Acts 2017, No. 985, § 1; 2019, No. 910, § 5446.
	17-56-201. Acts 2017, No. 985, § 1.
	17-56-202. Acts 2017, No. 985, § 1.



























